

**MICHIGAN ELECTION LAW (EXCERPT)**  
**Act 116 of 1954**

CHAPTER XXVIII  
HOLDING OF ELECTIONS

**168.641 Regular election date; primary election; special election; direction and supervision of election consolidation; short title of section.**

Sec. 641. (1) Except as otherwise provided in this section, an election held under this act shall be held on 1 of the following regular election dates:

- (a) The May regular election date, which is the first Tuesday after the first Monday in May.
- (b) The August regular election date, which is the first Tuesday after the first Monday in August.
- (c) The November regular election date, which is the first Tuesday after the first Monday in November.

(d) In each presidential election year when a statewide presidential primary election is held, the date of the statewide presidential primary election as provided in section 613a.

(2) If an elective office is listed by name in section 643, requiring the election for that office to be held at the general election, and if candidates for the office are nominated at a primary election, the primary election shall be held on the August regular election date.

(3) Except as otherwise provided in this subsection and subsection (4), a special election shall be held on a regular election date. A special election called by the governor under section 145, 178, 632, 633, or 634 to fill a vacancy or called by the legislature to submit a proposed constitutional amendment as authorized in section 1 of article XII of the state constitution of 1963 may, but is not required to be, held on a regular election date.

(4) A school district may call a special election to submit a ballot question to borrow money, increase a millage, or establish a bond if an initiative petition is filed with the county clerk. The petition shall be signed by a number of qualified and registered electors of the district equal to not less than 10% of the electors voting in the last gubernatorial election in that district or 3,000 signatures, whichever number is lesser. Section 488 applies to a petition to call a special election for a school district under this section. In addition to the requirements set forth in section 488, the proposed date of the special election shall appear beneath the petition heading, and the petition shall clearly state the amount of the millage increase or the amount of the loan or bond sought and the purpose for the millage increase or the purpose for the loan or bond. The petition shall be filed with the county clerk by 4 p.m. of the twelfth Tuesday before the proposed date of the special election. The petition signatures shall be obtained within 60 days before the filing of the petition. Any signatures obtained more than 60 days before the filing of the petition are not valid. If the special election called by the school district is not scheduled to be held on a regular election date as provided in subsection (1), the special election shall be held on a Tuesday. A special election called by a school district under this subsection shall not be held within 30 days before or 35 days after a regular election date as provided in subsection (1). A school district may only call 1 special election pursuant to this subsection in each calendar year.

(5) The secretary of state shall direct and supervise the consolidation of all elections held under this act.

(6) This section shall be known and may be cited as the "Hammerstrom election consolidation law".

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2003, Act 298, Eff. Jan. 1, 2005;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2015, Act 2, Eff. May 21, 2015;—Am. 2015, Act 101, Eff. Sept. 28, 2015;—Am. 2015, Act 197, Imd. Eff. Nov. 24, 2015.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

**168.642 Regular election or regular primary election held by city or village.**

Sec. 642. (1) Except as otherwise provided in this section and section 642a, beginning on September 1, 2004, a city shall hold its regular election or regular primary election as follows:

- (a) A city shall hold its regular election for a city office at the odd year general election.
- (b) A city shall hold its regular election primary at the odd year primary election.

(c) A city that holds its regular election for a city office annually or in the even year on the November regular election date shall continue holding elections on that schedule.

(d) A city that holds its regular election primary for a city office annually or in the even year on the August regular primary election date shall continue holding primary elections on that schedule.

(2) If, on September 1, 2004, a city holds its regular election at other than a regular November election date, the city council may choose to hold the regular election on the May regular election date by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election on the May regular election date, after December 31, 2004, the city's regular election is on the May regular election date. If a city's regular election is held on the May regular election date, the city shall not hold a regular primary election.

(3) If, on September 1, 2004, a city holds its regular election annually or in the even year on the November regular election date, the city council may choose to hold the regular election at the odd year general election by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election at the odd year general election, after December 31, 2004, the city's regular election is at the odd year election. If a city's regular election is held at the odd year general election, the city's regular election primary shall be held at the odd year primary election.

(4) If, on September 1, 2004, a city holds its regular election annually on the November regular election date, the city council may choose to hold the regular election at the even year general election by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election at the even year general election, after December 31, 2004, the city's regular election is at the even year election. If a city's regular election is held at the even year general election, the city's regular election primary shall be held at the even year primary election.

(5) A village shall hold its regular election as follows:

(a) A village shall hold its regular election for a village office at the general election and the appropriate township clerk shall conduct the election.

(b) A village shall not hold a regular primary election.

(6) If a village's special election is held in conjunction with another election conducted by a township, the village shall pay the township a proportionate share of the election expenses. If a village's special election is not held in conjunction with another election conducted by a township, the village shall pay the township 100% of the actual costs of conducting the village's special election.

(7) A resolution permitted under this section or section 642a is valid only if a city council adopts the resolution in compliance with all of the following:

(a) The resolution is adopted before 1 of the following:

(i) If the resolution is permitted under subsection (2), (3), or (4), January 1, 2005.

(ii) If the resolution is permitted under section 642a(1), (2), or (4), January 1 of the year in which the change in the date of the election takes effect.

(b) Before adopting the resolution, the council holds at least 1 public hearing on the resolution. The public hearing may be held on the same day and immediately before considering the adoption of the resolution.

(c) The council gives notice of each public hearing on the resolution in a manner designed to reach the largest number of the jurisdiction's qualified electors in a timely fashion.

(d) The council votes on the resolution and, on a record roll call vote, a majority of the council's board members, elected or appointed, and serving, adopt the resolution.

(e) The council files the resolution with the secretary of state.

**History:** Add. 2003, Act 302, Eff. Sept. 1, 2004;—Am. 2004, Act 292, Eff. Sept. 1, 2004;—Am. 2011, Act 233, Eff. Jan. 1, 2012;—Am. 2012, Act 523, Eff. Mar. 28, 2013;—Am. 2013, Act 51, Imd. Eff. June 11, 2013;—Am. 2015, Act 100, Eff. Sept. 28, 2015.

**Compiler's note:** Former MCL 168.642, which pertained to biennial spring elections, was repealed by Act 56 of 1963, 2nd Ex. Sess., Eff. Mar. 24, 1964.

**Popular name:** Election Code

### **168.642a Change of regular election schedule.**

Sec. 642a. (1) After December 31, 2004, a city council that adopted a resolution so that its regular election is held on the May regular election date may change its regular election to the odd year general election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642 to hold its regular election at the odd year general election, after December 31 of the year in which the resolution is adopted, the city's regular election is at the odd year general election.

(2) After December 31, 2004, a city council that holds its regular election for city offices annually or in the even year on the November regular election date may change its regular election schedule to the odd year general election and the odd year primary election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642, the city's regular election is at the odd year general election and its primary is at the odd year primary election.

(3) After December 31, 2010, a city that adopted a resolution so that its regular election primary is held at the September election shall hold its regular election primary at the odd year primary election.

(4) After December 31, 2011, a city that holds its regular election for city offices annually or in the odd year on the November regular election date may change its regular election schedule to the even year general election and the even year primary election by adopting a resolution in compliance with section 642. If a city council adopts the resolution in compliance with section 642, after December 31 of the year in which the resolution is adopted, the city's regular election is at the even year general election and its primary is at the even year primary election.

(5) After December 31, 2012, a village that adopted a resolution so that its regular election is held at the September election shall hold its regular election at the general November election.

**History:** Add. 2003, Act 302, Eff. Sept. 1, 2004;—Am. 2004, Act 294, Eff. Sept. 1, 2004;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2010, Act 182, Imd. Eff. Sept. 30, 2010;—Am. 2010, Act 222, Imd. Eff. Dec. 10, 2010;—Am. 2011, Act 233, Eff. Jan. 1, 2012;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### **168.642c Regular election for office of school board member.**

Sec. 642c. Beginning January 1, 2012, a school district shall hold its regular election for the office of school board member at the general November election.

**History:** Add. 2011, Act 233, Eff. Jan. 1, 2012.

**Popular name:** Election Code

### **168.643 General election; officers to be elected.**

Sec. 643. At the general election, the following officers shall be elected when required by law:

- (a) Presidential electors.
- (b) In the state at large, a governor and a lieutenant governor, a secretary of state, and an attorney general.
- (c) A United States senator.
- (d) In each congressional district, a representative in congress.
- (e) In each state senatorial district, a state senator.
- (f) In each state representative district, a representative in the state legislature.
- (g) Justices of the supreme court.
- (h) Two members of the state board of education.
- (i) Two regents of the University of Michigan.
- (j) Two trustees of Michigan State University.
- (k) Two governors of Wayne State University.

(l) In each county or district, judges of the court of appeals, a judge or judges of the circuit court, a judge or judges of probate, a judge or judges of the district court, a prosecuting attorney, a sheriff, a treasurer, an auditor, a mine inspector, a county road commissioner, a drain commissioner, a surveyor, and, subject to section 200, a clerk and a register of deeds or a clerk register.

(m) Township officers.

(n) Any other officers required by law to be elected at that election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1998, Act 364, Imd. Eff. Oct. 20, 1998;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

### **168.643a Referendums; questions submitted to electors; form.**

Sec. 643a. A question submitted to the electors of this state or the electors of a subdivision of this state shall, to the extent that it will not confuse the electorate, be worded so that a "yes" vote will be a vote in favor of the subject matter of the proposal or issue and a "no" vote will be a vote against the subject matter of the proposal or issue. The question shall be worded so as to apprise the voters of the subject matter of the proposal or issue, but need not be legally precise. The question shall be clearly written using words that have a common everyday meaning to the general public. The language used shall not create prejudice for or against the issue or proposal.

**History:** Add. 1969, Act 152, Eff. Mar. 20, 1970;—Am. 1994, Act 152, Eff. Jan. 1, 1995.

**Popular name:** Election Code

**168.644 Repealed. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.**

**Compiler's note:** The repealed section specified officers to be elected at biennial spring elections.

**Popular name:** Election Code

**168.644a-168.644c Repealed. 2003, Act 302, Eff. Jan. 1, 2005.**

**Compiler's note:** The repealed sections pertained to odd year general and primary elections and officers to be elected.

**Popular name:** Election Code

**168.644e Nomination at primary election; candidate filing deadline or certification deadline.**

Sec. 644e. Except as provided in section 642, an officer required to be elected at the odd year general election shall be nominated at the odd year primary election. Until December 31, 2013, if a charter provides for nomination by caucus or by filing a petition or affidavit directly for the general election, the candidate filing deadline or certification deadline shall be 4 p.m. on the twelfth Tuesday before the odd year general election. Beginning January 1, 2014, if a charter provides for nomination by caucus or by filing a petition or affidavit directly for the general election, the candidate filing deadline or certification deadline shall be 4 p.m. on the fifteenth Tuesday before the odd year general election. Until December 31, 2013, if a charter provides for the election at the primary of a candidate who receives more than 50% of the votes cast for that office, the candidate filing deadline or certification deadline shall be 4 p.m. on the twelfth Tuesday before the primary. Beginning January 1, 2014, if a charter provides for the election at the primary of a candidate who receives more than 50% of the votes cast for that office, the candidate filing deadline or certification deadline shall be 4 p.m. on the fifteenth Tuesday before the primary.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2010, Act 44, Imd. Eff. Mar. 31, 2010;—Am. 2012, Act 276, Eff. Aug. 16, 2012.

**Popular name:** Election Code

**168.644f Nominating petitions; filing; signatures; omission of nonpartisan petition requirement; filing deadline; adjustment; city falling under subsections (4) and (5).**

Sec. 644f. (1) Except as provided in this section and section 644e, nominating petitions for offices to be filled at the odd year general election shall be filed by 4 p.m. on the fifteenth Tuesday before the odd year primary election. The place of filing and the number of signatures shall be the same as is now required by law for those offices.

(2) If a nonpartisan petition requirement is not contained in law or charter, the minimum number of signatures shall be the amount as provided for in section 544f.

(3) If, upon the expiration of the time for filing nonpartisan petitions, not more than twice the number of candidates as there are persons to be elected to that office have filed, the primary for that office shall not be held and those persons filing valid petitions shall be declared the nominees for the offices, unless a city charter provides otherwise for city offices.

(4) Until December 31, 2015, the nominating petition filing deadline for candidates for city offices may be adjusted as provided in subsection (5) if all of the following occur:

(a) The city clerk publishes a nominating petition filing deadline that is different than the fifteenth Tuesday before the odd year primary election or the odd year general election and the nominating petition filing deadline published by the city clerk is between the fifteenth Tuesday and the twelfth Tuesday before the odd year primary election or the odd year general election.

(b) The city clerk did not publicly correct the filing deadline error at least 2 weeks before the fifteenth Tuesday before the odd year primary election or the odd year general election.

(c) One or more candidates for city offices in that city relied upon the incorrect nominating petition filing deadline, failed to file nominating petitions by the fifteenth Tuesday before the odd year primary election or the odd year general election, and filed nominating petitions by the filing deadline published by the city clerk that are determined by the city clerk to contain a sufficient number of valid signatures.

(5) If the bureau of elections confirms that all of the conditions set forth in subsection (4) are met, the bureau of elections may authorize the city clerk to adjust the nominating petition filing deadline for that odd year primary election or that odd year general election from the fifteenth Tuesday before the odd year primary election or the odd year general election to the incorrectly published nominating petition filing deadline.

(6) A city that falls under subsections (4) and (5) is subject to all of the following:

(a) Until December 31, 2017, the city clerk of that city shall attend at least once annually an election training school conducted by the director of elections as provided in section 33.

(b) Until December 31, 2017, the city clerk shall submit nominating petitions to the secretary of state for final approval as to form before being circulated for signatures and shall submit any election filing deadline calendars and any correspondence relating to those calendars to the secretary of state before being provided to the public.

(c) The secretary of state shall conduct a postelection audit after each November election held in the city in 2015, 2016, and 2017.

(d) The secretary of state shall conduct an administrative audit of the city clerk's elections operations and shall report the results of that administrative audit to the house and senate committees dealing with elections no later than October 1, 2015.

(e) Until December 31, 2015, the secretary of state shall conduct preelection precinct election inspector training for those acting as precinct election inspectors at any August or November election held in the city.

(f) Notwithstanding section 683, beginning January 1, 2016 and until December 31, 2017, those acting as precinct election inspectors at any August or November election held in the city shall attend a preelection training school for election inspectors conducted by the county clerk of the county in which the city is located.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2012, Act 276, Eff. Aug. 16, 2012;—Am. 2015, Act 43, Imd. Eff. June 5, 2015.

**Popular name:** Election Code

#### **168.644g Terms of office; extension.**

Sec. 644g. (1) A term of office shall not be shortened by the provisions of sections 641 to 644i. An officer scheduled by prior law to be elected at a time other than the odd year general election shall not be elected on the date scheduled but shall continue in office until a successor takes office after being elected in the first odd year general election following that date. If the regular election date for holding a jurisdiction's regular election is changed under section 642, 642a, or 642c, the term of an official who was elected before the effective date of the change continues until a successor is elected and qualified at the next regular election.

(2) Notwithstanding a law or charter provision to the contrary, an officer required to be elected at the odd year general election, who by law or charter is elected for a term of an odd number of years shall, after September 1, 2004, be elected for a term of 1 year longer than provided by law or charter.

(3) In home rule cities where the charter provides for the election of city officers at a time other than at the odd year general election and provides that members of the governing body are not all to be elected in the same year, the governing body by ordinance adopted prior to April 1, 1971 may alter the length of terms now provided by charter to provide that the city may continue to elect part of the governing body at each election. A term shall not be extended beyond January 1 following the first odd year general election at which the officer would be elected as provided by charter. A term shall not be for more than 4 years.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 293, Imd. Eff. July 23, 2004;—Am. 2011, Act 233, Eff. Jan. 1, 2012.

**Popular name:** Election Code

#### **168.644h Time of taking office.**

Sec. 644h. All persons elected at the odd year general election shall take office at 12 noon on January 1 following the election. In home rule cities, if the charter provides for an earlier date for taking office or if prior to April 1, 1971, the council provides by ordinance for an earlier date for taking office, the earlier date shall prevail.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970.

**Popular name:** Election Code

#### **168.644i Manner of conducting elections.**

Sec. 644i. All odd year primary and general elections shall be conducted in the manner elections for state and county offices are conducted.

**History:** Add. 1970, Act 239, Imd. Eff. Dec. 22, 1970.

**Popular name:** Election Code

#### **168.644j-168.644/ Repealed. 2003, Act 302, Eff. Jan. 1, 2005.**

**Compiler's note:** The repealed sections pertained to election in home rule city, regular city elections, and school district and community college district elections.

**Popular name:** Election Code

#### **168.645 Repealed. 1958, Act 192, Eff. Sept. 13, 1958.**

**Compiler's note:** The repealed section provided for biennial township elections.

**Popular name:** Election Code

**168.646 Repealed. 2003, Act 302, Eff. Jan. 1, 2005.**

**Compiler's note:** The repealed section pertained to provisions governing city and village regular elections.

**168.646a Election of local officer; nomination; certification of ballot wording; applicability of provisions.**

Sec. 646a. (1) If a local officer is to be elected at a general November election, candidates for the local office shall be nominated in the manner provided by law or charter, subject to sections 641 and 642. If candidates for the local office are to be nominated at caucuses, the caucuses shall be held on a date before the date set for the primary election or on the Saturday before the day of the primary election as determined by the local legislative body at least 20 days before the date of the caucus. If candidates are nominated by filing petitions or affidavits, they shall be filed at a time provided by charter, but not later than the date of the primary. Except as provided in section 642, the local primary election shall be held on the same day as a state or county primary election. If a state or county primary is being held on the same day, the last day for local candidates to file nominating petitions is the same as the last date to file petitions for state and county offices. The names of all local candidates and titles of office shall be certified to the county clerk by the local clerk within 5 days after the last day for filing petitions, and certification of nominees shall be made to that clerk within 5 days after the date on which the primary or caucus was held.

(2) If a ballot question of a political subdivision of this state including, but not limited to, a county, city, village, township, school district, special use district, or other district is to be voted on at a regular election date or special election, the ballot wording of the ballot question shall be certified to the proper local or county clerk not later than 4 p.m. on the twelfth Tuesday before the election. If the wording is certified to a clerk other than the county clerk, the clerk shall certify the ballot wording to the county clerk at least 82 days before the election. Petitions to place a county or local ballot question on the ballot at the election shall be filed with the clerk at least 14 days before the date the ballot wording must be certified to the local clerk.

(3) The provisions of this section apply to and control the filing deadlines for candidates for local office to be elected at the general November election and for all ballot questions of a political subdivision of this state at any regular election, primary election, or special election notwithstanding any provisions of law or charter to the contrary.

**History:** Add. 1958, Act 86, Eff. Sept. 13, 1958;—Am. 1961, Act 178, Eff. Sept. 8, 1961;—Am. 1962, Act 109, Eff. Mar. 28, 1963;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1964, Act 252, Imd. Eff. May 28, 1964;—Am. 1970, Act 23, Imd. Eff. May 27, 1970;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 2002, Act 431, Imd. Eff. June 6, 2002;—Am. 2003, Act 302, Eff. Jan. 1, 2005;—Am. 2004, Act 295, Imd. Eff. July 23, 2004;—Am. 2006, Act 647, Eff. May 14, 2007;—Am. 2013, Act 253, Eff. Apr. 26, 2014;—Am. 2015, Act 197, Imd. Eff. Nov. 24, 2015.

**Compiler's note:** Enacting section 1 of Act 197 of 2015 provides:

"Enacting section 1. Section 646a of the Michigan election law, 1954 PA 116, MCL 168.646a, as amended by this amendatory act is curative and intended to correct any misinterpretation of legislative intent by the Michigan court of appeals in *Meridian Charter Township v Ingham County Clerk*, 285 Mich App 581 (2009). It is the intent of the legislature that section 646a of the Michigan election law, 1954 PA 116, MCL 168.646a, as amended by this amendatory act expresses the original intent of the legislature that MCL 168.646a(3) supersedes any and all conflicting provisions of law or charter prescribing the filing deadlines for candidates for local office to be elected at the general November election and for all ballot questions of a political subdivision of this state at any regular election, primary election, or special election."

**Popular name:** Election Code

**168.646b Repealed. 2003, Act 302, Eff. Jan. 1, 2005.**

**Compiler's note:** The repealed section pertained to nomination and election of city or village officers.

**Popular name:** Election Code

**168.646c Repealed. 1990, Act 7, Imd. Eff. Feb. 12, 1990.**

**Compiler's note:** The repealed section pertained to election of judges of common pleas court.

**Popular name:** Election Code

**168.646d Repealed. 1980, Act 188, Imd. Eff. July 3, 1980.**

**Compiler's note:** The repealed section pertained to effective dates of precinct divisions.

**Popular name:** Election Code

**NOTICES OF ELECTION**

**168.647 Notice of elections; registered or certified mail.**

Sec. 647. Notices of election required by this act to be given by the secretary of state to county clerks, and by county clerks to city and township clerks, shall be sent by registered or certified mail with return receipt demanded.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

**168.648 Notice of elections to county clerk; time, contents.**

Sec. 648. The secretary of state, at least 60 days and not more than 90 days preceding any regular state or district primary or election, shall send to the county clerk of each county a notice in writing of such primary or election, specifying in such notice the federal, state and district offices for which candidates are to be nominated or elected, as well as any constitutional amendments and questions to be submitted thereat.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.649 Repealed. 2012, Act 276, Eff. Aug. 16, 2012.**

**Compiler's note:** The repealed section pertained to certification of proposed constitutional amendment or special question.

**Popular name:** Election Code

**168.649a Airport authority referendum; petitions, filing; submission.**

Sec. 649a. Regardless of any other provisions of this act, referendum petitions filed pursuant to the provisions of and within the time limit provided by section 23 of Act No. 73 of the Public Acts of 1970, being section 259.823 of the Compiled Laws of 1948, shall be placed on the ballot at the next general election if the referendum petitions are determined by the secretary of state to be sufficient and valid as required by this act the same as other referendum petitions filed under the provisions of this act. Referendum petitions filed under the provisions of section 23 of Act No. 73 of the Public Acts of 1970 with the secretary of state shall be canvassed by him and if found to be sufficient shall be certified to the county clerks within the authority from which the petitions were filed and he shall at the same time prescribe the form in which the special question shall be submitted. The returns shall be canvassed by the board of county canvassers and the results certified to the secretary of state.

**History:** Add. 1970, Act 211, Imd. Eff. Sept. 18, 1970.

**Popular name:** Election Code

**168.650 Subsequent vacancy; additional notice to county clerks.**

Sec. 650. If, after such notices have been sent, a vacancy shall occur in any office which by law is required to be filled at such election, the secretary of state shall send to each county clerk an additional notice specifying the office in which such vacancy exists and that such vacancy will be filled at the next general election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.651 Special election; notice to county clerks, contents.**

Sec. 651. Whenever a special election shall be ordered by the governor to fill any vacancy, the secretary of state shall immediately notify the county clerk of each of the counties embraced in the election district, or the county clerk of the county, the whole or part of which constitutes the election district, of the time of holding such election, the cause of such vacancy, the name of the officer and the time when the term of office will expire.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.652 Special elections; notice to city and township clerks, contents.**

Sec. 652. On receipt of any such notice from the secretary of state, the county clerk shall forthwith send a copy of the notice in writing to the clerk of each city and township in his county, which notice shall contain in substance the notice so received from the secretary of state, and he shall at the same time in such notice designate all county offices to be filled and any questions to be submitted at such election. If such county shall be divided into 2 or more senatorial or representative districts, such notice, so far as it relates to the election of senators and representatives, shall be sent by the county clerk to the clerk of each city and township in each respective district.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### **168.653 Repealed. 1982, Act 2, Imd. Eff. Jan. 27, 1982.**

**Compiler's note:** The repealed section pertained to public notice of election and offices to be filled.

**Popular name:** Election Code

### **168.653a Election notice; publication; form; agreement to jointly publish notice.**

Sec. 653a. (1) On receipt of the notice from the county clerk pursuant to section 652, the clerk of each city and township shall give notice of the time and place at which the election is to be held, the offices to be filled, and the proposals to be submitted to the voters. The notice shall be published in a newspaper published, or of general circulation, in the city or township. A caption or brief description of the proposal or proposals along with the location where an elector can obtain the full text of the proposal or proposals shall be included in the notice. The publication shall be made not less than 7 days before the election. The notice shall be in substantially the following form:

#### **ELECTION NOTICE**

To the qualified electors of the city or township  
\_\_\_\_\_ notice is hereby given that a

\_\_\_\_\_ (indicate whether regular, special, or primary)  
election will be held in \_\_\_\_\_  
on \_\_\_\_\_ from 7 a.m. to 8 p.m. for the purpose of  
(date)  
nominating or electing candidates for the following offices:

\_\_\_\_\_ (list of offices)  
and to vote on the following proposals:

\_\_\_\_\_ (list all proposals to be submitted to voters)  
List of polling place locations: \_\_\_\_\_.

\_\_\_\_\_ (clerk)

(2) A county clerk may enter into an agreement with the clerk of 1 or more townships or cities in the county or the clerks of 1 or more cities or townships in a county may enter into an agreement to jointly publish the notice in subsection (1). The notice shall be published in a newspaper of general circulation in the cities and townships listed in the notice. If certain offices or proposals are to be voted on in less than all of the precincts, the notice shall specify the townships or cities that shall vote on only those offices or proposals.

**History:** Add. 1982, Act 2, Imd. Eff. Jan. 27, 1982;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

## **ELECTION PRECINCTS**

### **168.654 Election precincts; definition.**

Sec. 654. The words "election precinct" as used in this act shall mean a political subdivision, the area of which is embraced in its entirety within the confines of a city, ward, township or village, and for which not more than 1 polling place is provided for all qualified and registered electors residing therein. When not divided according to law into 2 or more election precincts, each organized city, ward, township and village shall be an election precinct.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### **168.654a Election precinct; composition; "clearly observable boundaries" defined.**

Sec. 654a. (1) Except as otherwise provided in this section, an election precinct under this act shall be composed as nearly as practicable of compact and contiguous territory and shall have clearly defined and clearly observable boundaries. An election precinct in existence on the effective date of the amendatory act

that added this section that does not comply with this section shall be divided, consolidated, or reestablished to comply with this section not later than 210 days before the primary next preceding the 1996 general November election.

(2) As used in this section, “clearly observable boundaries” includes 1 or more of the following:

- (a) A named road or street.
- (b) A road or highway that is part of the federal, state primary, or state secondary road system.
- (c) A river, stream, or drainage feature that is 40 feet or more in width.
- (d) A natural or constructed permanent physical feature that is shown on an official county, city, or township map issued by the department of transportation or a United States geological survey topographical map.
- (e) An apartment building, a dormitory, or other permanent multiple-unit housing structure.
- (f) Any line or demarcation that meets the requirements of and is recognized by the United States bureau of the census.

**History:** Add. 1994, Act 401, Imd. Eff. Dec. 29, 1994.

**Popular name:** Election Code

### **168.655 Election precincts; time periods; outer boundaries; division or consolidation.**

Sec. 655. (1) Notwithstanding any other provision of this act, the outer boundaries of election precincts as established pursuant to this act for the 1988 general November election and the primary election next preceding the 1988 general November election shall remain as established at that time through the 1992 general November election, except as permitted in subsections (2) and (3).

(2) An election precinct may be divided or 2 or more contiguous election precincts may be consolidated as long as the outer boundaries are not altered during the time period mentioned above.

(3) Election precincts shall be divided, consolidated, or established within 30 days after the effective date of congressional, legislative, or county commissioner reapportionment plans.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1987, Act 226, Imd. Eff. Dec. 28, 1987.

**Popular name:** Election Code

### **168.656 Division of precincts.**

Sec. 656. (1) A city, ward, township, or village using paper ballots, having less than 400 registered voters, which constitutes a single election precinct, in the discretion of the election commission, or other officials charged with the performance of the duty by the charter of the city or village, may be divided into 2 or more election precincts. In a township, upon a petition signed by not less than 25 qualified electors of the township showing the boundaries of the proposed election precincts, the township board shall submit to the electors of the township, at the next election held in the township, the question of the division of the township into election precincts, as set forth in the petition. If, at the referendum, the electors of the township decide in favor of the division of the township into such election precincts, the township board shall thereupon make the division and enter the same of record in the proceedings of the township board. When in a township, city, ward, or village, or in an election precinct therein, using paper ballots, there is 400 or more registered electors, the election commission of the township or city, or other officials charged with the performance of the duty by the charter of the city or village, shall by resolution divide the precincts into 2 or more precincts, or shall again divide the township, city, ward, or village into election precincts, so that there shall not be more than 400 registered electors in any 1 precinct.

(2) Except as provided in subsection (3), city and township election commissions shall divide precincts according to law, not later than 210 days before the primary next preceding the general November election, and shall immediately notify the county clerk of the number of registered voters in each precinct in such city or township. The county clerk shall notify the secretary of state not later than 200 days before the primary of any precincts in his or her county which have not been divided according to law, and the secretary of state shall proceed to make the divisions as are necessary at the expense of the city or township involved, not later than 180 days before the primary next preceding the general November election. The division of precincts shall be made effective not later than 180 days before the primary election next preceding the general November election.

(3) In the second year following each federal census, precincts shall be divided pursuant to this subsection. City and township election commissions shall divide precincts, not later than 120 days before the primary election next preceding the general November election in order that a precinct, as far as is practical, is not split between districts and does not exceed 400 registered voters, and the commissions shall immediately notify the county clerk of the number of registered voters in each precinct in each city or township. The county clerk shall notify the secretary of state not later than 110 days before the primary of any precincts in

the county which have not been divided, and the secretary of state shall proceed to make the divisions as are necessary at the expense of the city or township involved, not later than 90 days before the primary election. The division of precincts shall be made effective not later than 90 days before the primary election next preceding the general November election. The secretary of state may authorize, upon written request by a city or township election commission, a later division of a precinct which contains portions of more than 1 elective district. All precinct divisions under this subsection shall be completed not later than 90 days before the primary election next preceding the general November election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1969, Act 290, Imd. Eff. Aug. 11, 1969;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1982, Act 2, Imd. Eff. Jan. 27, 1982.

**Popular name:** Election Code

#### **168.657 Election precincts; division, rearrangement.**

Sec. 657. When any city, ward, township or village has been divided into 2 or more election precincts, the election commission, or other officials charged with the performance of such duty by the charter of any city or village, as the case may be, may by resolution divide any precinct thereof into 2 or more precincts, attach a portion of any precinct to an adjoining precinct, or may again rearrange the city, ward, township or village into election precincts as said election commission or other officials charged with the performance of such duty by the charter of any city or village, may deem necessary and convenient for conducting primaries or elections in said city, ward, township or village, in the same manner and under the same restrictions as provided in sections 656 and 661 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

#### **168.658 Election precincts; consolidation.**

Sec. 658. When a city, ward, township, or village is divided into 2 or more election precincts, pursuant to law, and it appears from an examination of the precinct registration records that there are not more than 2,999 active registered electors in the city, ward, township, or village using voting machines, the election commission, or other officials charged with the performance of the duty by the charter of a city or village, by resolution, may abolish the division or divisions and after that time the city, ward, township, or village shall constitute a single election precinct as if a division had not been made. A consolidation shall not be made later than the 120 days before a primary or election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1969, Act 290, Imd. Eff. Aug. 11, 1969;—Am. 1977, Act 236, Imd. Eff. Nov. 30, 1977;—Am. 2012, Act 270, Eff. Aug. 15, 2012.

**Popular name:** Election Code

#### **168.659 Consolidation of election precincts.**

Sec. 659. (1) If a county, city, ward, township, village, metropolitan district, or school district is divided into 2 or more election precincts, the county, city, ward, township, or village election commissioners may, by resolution, consolidate the election precincts for a particular election that is not a general November election, primary election immediately before a general November election, or other statewide or federal election. In making the determination to consolidate election precincts for a particular election, the election commission shall take into consideration the number of choices the voter must make, the percentage of registered voters who voted at the last similar election in the jurisdiction, and the intensity of the interest of the electors in the jurisdiction concerning the candidates and proposals to be voted upon. Consolidated precincts shall not exceed 5,000 active registered electors.

(2) A consolidation under this section shall be made not less than 60 days before a primary, general, or special election.

(3) Unless the polling places for the election precincts to be consolidated are located in the same building, when a county, city, ward, township, or village consolidates election precincts for a particular election under subsection (1), the election commissioners or other designated election officials shall do both of the following:

(a) Provide notice to the registered electors of the affected election precincts of the consolidation of election precincts for the particular election and the location of the polling place for the election precinct or precincts for that election. Notice may be provided by mail or other method designed to provide actual notice to the registered electors.

(b) Post a written notice at each election precinct polling place stating the location of the consolidated election precinct polling place.

(4) If a county, city, ward, township, or village consolidates election precincts under this section, each

affected election precinct shall be treated as a whole unit and shall not be divided during the consolidation.

**History:** Add. 2003, Act 302, Eff. Mar. 30, 2004;—Am. 2004, Act 296, Imd. Eff. July 23, 2004;—Am. 2012, Act 270, Eff. Aug. 15, 2012;—Am. 2012, Act 586, Imd. Eff. Jan. 7, 2013;—Am. 2014, Act 94, Imd. Eff. Apr. 3, 2014.

**Compiler's note:** Former MCL 168.659, which pertained to prohibition of change in election precincts within 60 days of primary or election, was repealed by Act 271 of 1955, Imd. Eff. June 30, 1955, and by Act 283 of 1955, Imd. Eff. July 19, 1955.

**Popular name:** Election Code

#### **168.660 Subdivision, alteration, or rearrangement of precincts; record; numbers of precincts; description of boundaries; notice; abolition of division into precincts.**

Sec. 660. When a city, ward, township, or village is subdivided into election precincts, or the election precincts are altered or rearranged, the city, township, or village election commission, or other officials charged with the performance of the duty by the charter of the city or village, shall enter that action of record in its proceedings, specify the numbers of the precincts altered or rearranged in numerical order, and describe the boundaries of each precinct. Notice of the subdivision, alteration, or rearrangement shall be given immediately by the city, township, or village clerk. The notification shall be effected by mailing to each qualified and registered elector affected by the subdivision, alteration, or rearrangement a notice by first class letter postage advising the location of his new polling place and, if deemed advisable by the city, township, or village election commission, by posting a public notice of the change in 2 places in each precinct affected thereby, advising the boundaries of each of the precincts. A notice shall also be immediately transmitted to the county clerk, and the county clerk shall transmit to the secretary of state, not later than 200 days prior to the primary next preceding the general November election, the number of election precincts in his county. The city, township, or village clerk shall give like notice of the abolition of the division of a city, ward, township, or village into election precincts, and shall, in the notice of abolition, state that the city, ward, township, or village is restored as a single election precinct and indicate the location of the polling place therein. Notice of the abolition shall be immediately transmitted to the county clerk, and by him to the secretary of state, as in the case of the subdivision or alteration of boundaries as herein provided.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976.

**Popular name:** Election Code

#### **168.661 Precincts using voting machines; number of machines; division or rearrangement of precincts; notices; expenses; use of paper ballots; time limitations on division of precincts; division of precincts following federal census; determining number of registered voters.**

Sec. 661. (1) When the voter registration in a precinct using voting machines is 1,000 or less, there shall be not less than 1 voting machine for each 500 active registered electors at the general November election and at the primary immediately preceding that election. When the voter registration in a precinct using voting machines is more than 1,000 and less than 3,000, there shall be at least 1 voting machine for each 600 active registered electors at the general November election and at the primary immediately preceding that election. At other primaries and elections, the number of voting machines shall be at the discretion of the local election commission. In making this determination, the local election commission shall take into consideration the number of choices the voter must make, the percentage of registered voters who voted at the last similar election in the jurisdiction, and the intensity of the interest of the electors in the jurisdiction concerning the candidates and proposals to be voted upon. When the voter registration in a precinct using voting machines exceeds 2,999, the precinct shall be divided or rearranged.

(2) Except as provided in subsection (3), city and township election commissions shall divide precincts according to law, not later than 210 days before the primary next preceding the general November election, and shall immediately notify the county clerk of the number of registered voters in each precinct in the city or township. The county clerk shall notify the secretary of state not later than 200 days before the primary of a precinct in the clerk's county which has not been divided according to law, and the secretary of state shall proceed to make divisions as are necessary at the expense of the city or township involved, not later than 180 days before the primary next preceding the general November election. If the election commission of a city, village, or township using voting machines decides to use paper ballots for a primary or election, the preceding limitations shall continue for that election. A division of precincts shall be made effective not later than 180 days before the primary election next preceding the general November election.

(3) In the second year following each federal census, precincts shall be divided pursuant to this subsection. City and township election commissions shall divide precincts, not later than 120 days before the primary election next preceding the general November election in order that a precinct, as far as is practical, is not

split between districts and does not exceed 2,999 registered voters, and shall immediately notify the county clerk of the number of registered voters in each precinct in each city or township. The county clerk shall notify the secretary of state not later than 110 days before the primary of any precincts in the county which have not been divided, and the secretary of state shall proceed to make the divisions as are necessary, at the expense of the city or township involved, not later than 90 days before the primary election next preceding the general November election. The division of precincts shall be made effective not later than 90 days before the primary election. The secretary of state may authorize, upon written request by a city or township election commission, a later division of a precinct which contains portions of more than 1 elective district. All precinct divisions shall be completed not later than 90 days before the primary election next preceding the general November election. In determining the number of registered voters for a precinct under this subsection, a city or township election commission or the secretary of state, as applicable, may use either of the following:

(a) Only the active registered voters for that city or township.

(b) Both the active registered voters for that city or township and the voters in the inactive voter file for that city or township.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1964, Act 212, Imd. Eff. May 22, 1964;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1977, Act 236, Imd. Eff. Nov. 30, 1977;—Am. 1982, Act 2, Imd. Eff. Jan. 27, 1982;—Am. 2012, Act 270, Eff. Aug. 15, 2012.

**Popular name:** Election Code

## POLLING PLACES, EQUIPMENT, SUPPLIES

### **168.662 Designating place of holding election in city, village, or township; polling places; use of publicly owned or controlled buildings; rental or erection of buildings; facilities; central polling places; abolishment; compliance with voting accessibility.**

Sec. 662. (1) The legislative body in each city, village, and township shall designate and prescribe the place or places of holding an election for a city, village, or township election, and shall provide a suitable polling place in or for each precinct located in the city, village, or township for use at each election. Except as otherwise provided in this section, school buildings, fire stations, police stations, and other publicly owned or controlled buildings shall be used as polling places. If it is not possible or convenient to use a publicly owned or controlled building as a polling place, the legislative body of the city, township, or village may use as a polling place a building owned or controlled by an organization that is exempt from federal income tax as provided by section 501(c) other than 501(c)(4), (5), or (6) of the internal revenue code of 1986, or any successor statute. The legislative body of a city, township, or village shall not designate as a polling place a building that is owned by a person who is a sponsor of a political committee or independent committee. A city, township, or village shall not use as a polling place a building that does not meet the requirements of this section. As used in this subsection, “sponsor of a political committee or independent committee” means a person who is described as being a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224, and includes a subsidiary of a corporation or a local of a labor organization, if the corporation or labor organization is considered a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224.

(2) The legislative body in each city, village, and township shall make arrangements for the rental or erection of suitable buildings for use as polling places if publicly owned or controlled buildings are not available, and shall have the polling places equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation. The legislative body may establish a central polling place or places for 6 precincts or less if it is possible and convenient for the electors to vote at the central polling place. The legislative body may abolish other polling places not required as a result of the establishment of a central polling place.

(3) The legislative body of a city, village, or township may establish a polling place at a for profit or nonprofit residence or facility in which 150 persons or more aged 62 or older reside or at an apartment building or complex in which 150 persons or more reside. A township board may provide polling places located within the limits of a city that has been incorporated from territory formerly a part of the township, and the electors of the township may cast their ballots at those polling places. If 2 contiguous townships utilize a combined township hall or other publicly owned or controlled building within 1 of the township's boundaries and outside of the other township's boundaries, and there is not another publicly owned or controlled building or a building owned or controlled by an organization that is exempt from federal income tax, as provided by section 501(c), other than 501(c)(4), (5), or (6), of the internal revenue code of 1986, available or suitable for a polling place within the other township, then each township board may provide a polling place in that publicly owned building for 1 or more election precinct.

(4) The legislative body of a city, village, or township shall not establish, move, or abolish a polling place less than 60 days before an election unless necessary because a polling place has been damaged, destroyed, or rendered inaccessible or unusable as a polling place.

(5) The legislative body of a city, village, or township shall ensure that a polling place established under this section is accessible and complies with the voting accessibility for the elderly and handicapped act and the help America vote act of 2002.

(6) As used in this section, “accessible” means the removal or modification of policies, practices, and procedures that deny an individual with a disability the opportunity to vote, including the removal of physical barriers as identified in section 261(b) of the help America vote act of 2002, 42 USC 15421, so as to ensure individuals with disabilities the opportunity to participate in elections in this state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1974, Act 165, Imd. Eff. June 23, 1974;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 13, Imd. Eff. Feb. 26, 2004;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

#### **168.663 Polling places; erection of barriers.**

Sec. 663. The legislative body of each city, village and township shall provide for and cause to be erected in the room where any election is to be held in each election precinct of such city, village or township, a suitable barrier which shall be so placed as to separate from the rest of the room the area in which the election officials, challengers, voting machines or ballot boxes and voting booths, and persons in the actual process of voting, are located. The barrier shall be of a type approved by the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1962, Act 74, Eff. Mar. 28, 1963.

**Popular name:** Election Code

#### **168.664 Polling places; booths or temporary rooms, specifications.**

Sec. 664. On the inside of said railing, the said officers shall cause 1 or more booths or temporary rooms to be erected. At least 1 such booth shall be provided at each polling place and not less than 1 for each 100 persons entitled to vote thereat, as shown by the registration book of the precinct. Each such booth shall be built with walls not less than 6 feet high and in such manner that the person preparing his ballot shall be concealed from all other persons. In each booth there shall be provided a shelf of sufficient size with smooth surface on which ballots may be placed to be marked.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.665 Polling places; forms, stationery and supplies; provision, delivery, approval by state bureau of elections.**

Sec. 665. All forms, stationery and supplies required by the several boards of precinct election inspectors for all federal, state, district and county primaries and elections shall be furnished in accordance with sections 666, 667, 668, 669 and 670 of this act. All forms, stationery and supplies to be provided by the secretary of state and the boards of county election commissioners shall be delivered to the county clerks who shall, in turn, deliver them to the several city and township clerks at the time official ballots are delivered, and said ballots, as well as all forms, stationery and supplies referred to in sections 666, 667, 668, 669 and 670 of this act, shall be delivered by said city and township clerks to the several boards of precinct election inspectors in sufficient time for use at any such primary or election. Notwithstanding any provision of law to the contrary, it shall be unlawful for any publisher, printer or supplier to offer for sale to any county, city, village or township clerk or election commission any of the following until such shall have been approved by the state bureau of elections:

1. Statements of returns
2. Tally books and poll books
3. Combined tally and statement books
4. Certificates of electors sworn to disability
5. Envelopes for transmitting tally books, statement books, poll books and election certificates
6. Wrappers for securing voted ballots
7. Applications for ballots
8. Anything which is required by the election law to be approved, prescribed or recommended by the secretary of state or state director of elections.

The provisions of this section shall not apply to forms printed on the direct order of any county, city, village or township clerk or election commission.

**Popular name:** Election Code

Sec. 666. At each federal, state, district, or county primary or election, the secretary of state shall furnish to each county clerk at state expense the following items:

(b) A substantial supply of red gummed paper seals for use of the precinct boards of election inspectors in sealing the package of ballots and the envelopes containing the tally sheets or poll books and the statement of returns. Each seal shall have inscribed on it the words "Election Seal--State of Michigan" and the date of the primary or election at which it is to be used. A space shall also be provided on the seal in which 2 members of the board of election inspectors shall write their initials after the seal has been applied.

**Popular name:** Election Code

**Popular name:** Election Code

STATE OF MICHIGAN )  
 ) ss  
County of ..... )  
Ward (or township)..... Precinct.....  
CERTIFICATE OF BOARD OF PRECINCT ELECTION INSPECTORS FOR  
RETURNS AND FOR SEALING BALLOTS AND BOXES

WE DO HEREBY FURTHER CERTIFY That all ballots cast at the (primary or election) held in the above designated precinct of the (city, ward, township or village) of ....., State of Michigan, on the ..... day of ....., in the year 19..., have been securely tied in packages or rolls and sealed in such manner as to render it impossible to open such packages or rolls or remove any of the contents thereof without breaking the said seals; that there was endorsed on each of said packages or rolls a statement showing the number and kind of ballots included in each such package or roll; that all of said packages or rolls, so endorsed, together with one tally sheet, were placed in the proper ballot box or boxes; that the slots in the ballot boxes were closed, that the ballot boxes were securely sealed with the official metal seals furnished for that purpose; that such seals

were affixed in such manner as to render it impossible to open such ballot boxes without breaking such seals.

IN WITNESS WHEREOF, We have hereunto set our hands this ....  
day of ....., A.D., 19.... .

.....  
.....  
.....

Members of the Board of Election Inspectors

(b) The several county boards of election commissioners shall, at the expense of their respective counties, furnish suitable tally sheets or combined tally and return sheets to be used by the inspectors of election in counting the votes for all candidates and for amendments or propositions submitted on ballots prepared by said commissioners and shall deliver the same to the inspectors of election, as provided in this act in the case of ballots;

(c) The various boards of county election commissioners shall furnish self-addressed substantial paper envelopes with gummed flaps to be used by the various boards of precinct election inspectors for sealing the statements of returns, the tally books or combined tally and return sheets, poll lists and a certificate of election inspectors;

(d) The several boards of county election commissioners shall furnish a sufficient number of substantial paper wrappers for use in wrapping the packages or rolls of each kind of ballots cast at any state or county primary or election. Such wrappers shall have printed thereon a form for recording the date of the election, the city, ward or township and precinct, the number and kind of ballots contained in such package or roll and a statement to be signed by the chairman certifying that such ballots have been wrapped, tied and sealed in the required manner. The board of election commissioners of any city or township may supply a bag type container to be used in lieu of the paper wrappers. The minimum specifications of such bag type containers shall be established by the secretary of state. If such bag type containers are to be used in any city or township, the clerk thereof shall notify the county clerk and thereafter paper wrappers shall not be furnished to such city or township. Each specific type of bag type container shall be approved by the secretary of state before being used. Such bag shall have securely attached thereto a tag on which can be written the same information as is required to be placed on the paper wrappers and such bag shall contain a device whereby it can be sealed with a metal seal. Hereafter any references in law to the wrapping and sealing of paper ballots by precinct inspectors shall be deemed to include placing of ballots in bag type containers and sealing of such bags in precincts using bag type containers in lieu of paper wrappers; and

(e) The board of election commissioners of each county shall provide, at the expense of the county, for each state, district or county election in said county, as many black or blue lead pencils as may be necessary to supply each election precinct with at least 3 of such pencils for each booth erected in such precinct. The pencils provided for each precinct shall be enclosed with the official ballots when delivered to the city or township clerk as by law provided. The inspectors of election shall attach such pencils with strings, or in other suitable manner, to the shelf of the booth. The board of election commissioners of each county shall issue a warrant in payment for said pencils, and said warrant shall be paid by the county treasurer out of the general fund of the county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 222, Eff. Sept. 27, 1957.

**Popular name:** Election Code

### **168.668 Delivery of voter registration list, forms, and other supplies.**

Sec. 668. Before the polls open, the city, township, or village clerk shall deliver to the board of election inspectors of each precinct the voter registration list, the forms for poll lists and returns, and any other supplies necessary to conduct the election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 2004, Act 96, Imd. Eff. May 7, 2004

**Popular name:** Election Code

### **168.668a Voter information displays.**

Sec. 668a. (1) The secretary of state shall furnish to each county clerk at state expense for each precinct 2 voter information displays that contain in not less than 18-point type the following information:

(a) The hours that the polls will be open.

(b) Voting instructions.

(c) Information on an individual's right to obtain a provisional ballot and instructions on how to vote a provisional ballot.

(d) Information on the identification requirements that apply to voters who register by mail.

- (e) Instructions on how to contact the appropriate election official about alleged voting rights violations.
- (f) Information on the federal and state laws that prohibit fraud and misrepresentation.
- (g) Information on how to challenge another voter as unqualified to vote.
- (h) Other information that the secretary of state considers necessary.

(2) Upon receipt of the voter information displays under subsection (1), each county clerk shall provide to each city, township, or village clerk, as designated by the secretary of state, 2 voter information displays for each precinct in the county.

(3) The city, township, or village clerk shall provide to each precinct 2 voter information displays and an instruction ballot for display at each precinct.

(4) Before the polls open on election day, the board of election inspectors in each precinct shall post in conspicuous places in the polling place the voter information displays and instruction ballot required under this section.

(5) If requested by an elector, the city, township, or village clerk shall have available a means to provide the information contained in the voter information displays in an alternative format, as prescribed by the secretary of state.

**History:** Add. 2004, Act 96, Imd. Eff. May 7, 2004.

**Popular name:** Election Code

### **168.669 Ballot boxes to be provided by city, township, or village.**

Sec. 669. For a federal, state, district, or county primary or election, a city, township, or village board of election commissioners shall provide, at the expense of the respective city, township, or village, each of the following:

(a) For each election precinct, a ballot box with lock and key approved under section 24j. Each ballot box shall have an opening through the inside lid of the proper size to admit a single ballot into the box. Each ballot box shall be provided with a second cover or a metal or wooden device for closing the opening to prevent access without unlocking the ballot box and breaking the seal. The city, township, or village clerk shall provide and keep adequate ballot boxes for each precinct.

(b) For each election precinct, if another ballot container in addition to a ballot box is utilized in the precinct, a ballot container approved under section 24j.

(c) For each polling place, a United States flag and any additional items needed to display the flag. The flag shall measure not less than 3 feet wide and 5 feet long. The election inspectors shall ensure that the flag is displayed at or in each polling place during an election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code

### **168.669a Polling places; ballot containers.**

Sec. 669a. In addition to ballot containers which comply with the requirements of this act, ballot containers for use at the general November election held in the year 1964 and at the primary immediately preceding, may be used if they comply with specifications approved by the secretary of state and shall be secured by sealing as directed by him.

**History:** Add. 1964, Act 251, Eff. Aug. 28, 1964.

**Popular name:** Election Code

### **168.670 Local primaries and elections; ballots, forms, stationery and supplies.**

Sec. 670. For all local primaries and elections, the election commissioners of the various cities, townships and villages shall furnish, at the expense of their respective cities, villages and townships all ballots, forms, stationery and supplies required for the proper conduct of such primaries and elections. These supplies shall conform generally with the supplies furnished for general primaries and elections.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### **168.671 Blank forms for returns; seals.**

Sec. 671. At the time of delivering the official ballots and other election supplies to the township and city clerks or, for city, village, or township elections, to the wards or precincts, a sufficient number of blank forms for use by the election inspectors in making the statement of returns of the election as required by law shall be delivered. At the same time, a sufficient number of seals for the use of the election inspectors in sealing the ballot boxes after the close of the election shall be delivered. A record of the number of seals delivered to each voting precinct, absent voter counting board, and absent voter counting board precinct shall be recorded

and preserved.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2012, Act 272, Imd. Eff. July 3, 2012.

**Popular name:** Election Code

#### **168.672 Board of inspectors of elections; presence in precinct polling places.**

Sec. 672. At every election, there shall be a board of at least 3 inspectors of election, constituted as in this chapter provided, in and for each election precinct. Not less than a majority of the inspectors shall be present in the precinct polling place during the time the polls are open.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

#### **168.673 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.**

**Compiler's note:** The repealed section provided for chairman of board of inspectors of elections.

**Popular name:** Election Code

#### **168.673a Election inspector; submission of list of interested individuals.**

Sec. 673a. Not later than May 15 of each year, the county chair of a major political party may submit to the city, township, or village clerks in that county a list of individuals who are interested in serving as an election inspector in that county. The county chair may designate in the list the city, township, or village in which each individual on the list wishes to serve.

**History:** Add. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

#### **168.674 Precinct election inspectors; appointment; chairperson; political party membership; challenge; vacancies.**

Sec. 674. (1) Notwithstanding any other provision of law to the contrary and subject to this section, the city and township board of election commissioners and the village board of election commissioners for village elections only, at least 21 days but not more than 40 days before each election, but in no case less than 5 days before the date set for holding schools of instruction, shall appoint for each election precinct at least 3 election inspectors and as many more as in its opinion is required for the efficient, speedy, and proper conduct of the election. The board of election commissioners may appoint as election inspector an individual on the list submitted by a major political party under section 673a who is qualified to serve under section 677. An appointment of an election inspector under this section is void if a properly completed application for that election inspector is not on file in the clerk's office as prescribed in section 677.

(2) The board of election commissioners shall designate 1 appointed election inspector as chairperson. The board of election commissioners shall appoint at least 1 election inspector from each major political party and shall appoint an equal number, as nearly as possible, of election inspectors in each election precinct from each major political party. The board of election commissioners may appoint election inspectors in an election precinct from minor political parties. Not later than 2 business days following the appointment of election inspectors under subsection (1) for elections in which a federal or state office appears, the board of election commissioners shall notify by certified mail, personal service, or electronic transmission capable of determining date of receipt the county chair of each major political party of the names and political party affiliations of appointed election inspectors and the precincts to which those inspectors were appointed. A board of election commissioners shall not appoint a person as an election inspector if that person declares a political party preference for 1 political party but is a known active advocate of another political party. As used in this section, "a known active advocate" means a person who meets 1 or more of the following:

(a) Is a delegate to the convention or an officer of that other party.

(b) Is affiliated with that party through an elected or appointed government position.

(c) Has made documented public statements specifically supporting by name the other political party or its candidates in the same calendar year as the election for which the appointment is being made. As used in this subdivision, "documented public statements" means statements reported by the news media or written statements with a clear and unambiguous attribution to the applicant.

(3) The county chair of a major political party may challenge the appointment of an election inspector based upon the qualifications of the election inspector, the legitimacy of the election inspector's political party affiliation, or whether there is a properly completed declaration of political party affiliation in the application for that election inspector on file in the clerk's office. The challenge shall be in writing, specifically identify the reason for the challenge, and include any available documentation supporting the challenge. The county

chair of the political party shall file a challenge under this subsection with the board of election commissioners not later than 4 business days following receipt of the board of election commissioners' notice of appointed election inspectors under subsection (2).

(4) Upon receipt of a challenge under subsection (3), the board of election commissioners shall determine whether the appointee has the necessary qualifications by reviewing the application or any other official records, such as voter registration records, or whether the applicant has a properly completed certification of political party affiliation in the application. If the challenge alleges that the appointee is a known active advocate of a political party other than the one on the appointee's application, the board of election commissioners immediately shall provide the appointee with a copy of the challenge by certified mail, personal service, or electronic transmission capable of determining date of receipt. The appointee may respond to the challenge within 2 business days after receiving a copy of the challenge. A response shall be by affidavit addressing the specific reasons for the challenge. Failure to respond shall result in revocation of the appointment. Within 2 business days after receiving the challenge or a response from the appointee, whichever is later, the board of election commissioners shall make a final determination and notify the appointee and the county chair of the political party of the determination.

(5) If a vacancy occurs in the office of chairperson or in the office of election inspector before election day, the chairperson of the board of election commissioners shall designate some other properly qualified applicant or election inspector as chairperson or some other qualified applicant as election inspector, as applicable, subject to this section. If a vacancy occurs in the office of chairperson on election day, the remaining election inspectors shall designate 1 of the inspectors as chairperson.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

#### **168.675 Precinct election inspectors; vacancies during election.**

Sec. 675. In case 3 inspectors shall not attend at the opening of the polls or shall not remain in attendance during the election, the electors present may choose, viva voce, such number of said electors as, with the inspector or inspectors present, shall constitute a board of 3 in number; and such electors so chosen shall be inspectors of that election during the continuance thereof: Provided, however, That not more than 2 of the members of the board of inspectors of election when constituted shall be of the same political party.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.676 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.**

**Compiler's note:** The repealed section provided for city or village board of election inspectors.

**Popular name:** Election Code

#### **168.677 Precinct election inspector; qualifications; application; contents; candidates ineligible; appointment.**

Sec. 677. (1) Except as otherwise provided in subsection (4), a precinct election inspector shall be a qualified and registered elector of this state, shall have a good reputation, and shall have sufficient education and clerical ability to perform the duties of the office. A person shall not be appointed to a board of election inspectors unless the person has filed an application with a city, township, or village clerk in that county where the individual wishes to serve as election inspector.

(2) The application shall be in his or her own handwriting and shall contain the applicant's name, home address, ward and precinct registration if any, date of birth, political party affiliation, education, employment, and other experience qualifications. The application shall provide a certification that the applicant is not a member or a known active advocate, as that term is defined in section 674, of a political party other than the one entered on the application. The form of the application under this section shall be approved by the state director of elections. The clerk shall maintain a file of applications filed under this section and make the applications available for public inspection at the clerk's office during normal business hours.

(3) A person shall not be knowingly appointed or permitted to act as a precinct election inspector if the person or any member of his or her immediate family is a candidate for nomination or election to any office at the election or who has been convicted of a felony or election crime. A person shall not be permitted to act as an election inspector if he or she has failed to attend a school of instruction or failed to take an examination as provided in section 683. This section does not prohibit the candidate for or delegate to a political party convention from acting as an election inspector in a precinct other than the precinct in which he or she

resides. An election shall not be invalidated merely because of the violation of the provisions of this section.

(4) Except as otherwise provided in this subsection and subject to subsection (5), a person who is 16 or 17 years of age may be appointed to a board of election inspectors. Before a person may be appointed under this subsection, the first 3 members of the board required to be appointed under section 672 must meet the requirements of subsections (1) to (3). A person who is appointed under this subsection must meet the requirements of subsections (1) to (3) other than being a qualified and registered elector of this state. A person who is appointed under this subsection is not eligible to be designated as chairperson of the board under section 674.

(5) If a person seeking appointment to a board of election inspectors under subsection (4) is attending a K-12 school and if an election falls on a school day, the person shall provide to the clerk, along with the application filed under subsections (1) and (2), a written document from his or her school specifically acknowledging that person's application for appointment to the board of election inspectors and specifically excusing that person from school on the date of service, if the appointment is made.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1962, Act 67, Eff. Mar. 28, 1963;—Am. 1967, Act 35, Eff. Nov. 2, 1967;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1997, Act 158, Imd. Eff. Dec. 22, 1997;—Am. 2012, Act 157, Imd. Eff. June 5, 2012.

**Popular name:** Election Code

#### **168.678 Board of election inspectors; authority.**

Sec. 678. Each board of election inspectors shall possess full authority to maintain peace, regularity and order at its polling place, and to enforce obedience to their lawful commands during any primary or election and during the canvass of the votes after the poll is closed.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.679 Counting board; membership; appointment; duties; applicability of MCL 168.662 to place of performance.**

Sec. 679. (1) The legislative body of a city, township, or village, by resolution, may provide that for an election in a precinct of the city, township, or village, there shall be an additional board of election inspectors, known as the counting board. The counting board shall consist of 3 or more election inspectors. Sections 673a and 674 apply to the appointment of election inspectors to counting boards under this section. The counting board shall count the ballots cast in the precinct at an election and make a statement of returns of that count. The provisions of this chapter relative to the appointment, qualifications, privileges, powers, duties, and oaths of office of election inspectors shall apply to the members of a counting board, to the extent that they apply to the counting of the votes cast at and the making of the statement of returns of an election.

(2) In a precinct for which a counting board has been provided, the duties of the election inspectors who have conducted the election during the day shall cease on the closing of the polls and, upon the closing of the polls, the counting board shall assume charge and control of the place of voting, the ballot boxes, the ballots, and all other equipment of the polling place and shall proceed with the counting of votes. The counting board shall perform all duties required by this act to be performed after the closing of the polls at an election by the board of election inspectors in a precinct that does not have a counting board, as provided in this section.

(3) Section 662 applies to the designation and prescribing of the place or places in which the counting board performs its duties under this section.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

#### **168.679a Receiving board; appointment and duties of inspectors; review of poll book and statement of returns; corrective action; delivery.**

Sec. 679a. (1) The election commission of a city, township, or village shall, by resolution, provide that at an election at which the ballots are counted and certified at the precinct, 1 or more additional boards of election inspectors be appointed to serve as receiving boards. For a precinct having receiving boards, the board of election commissioners shall appoint a receiving board consisting of 2 or more election inspectors, with an equal number from each major political party, and shall appoint an equal number of election inspectors from each major political party.

(2) Not less than 2 election inspectors in a precinct, representing each of the major political parties, shall deliver to the receiving board for that precinct a sealed ballot container containing the voted ballots, and, in a separate sealed envelope, the poll book and statement of returns. The poll book and statement of returns may be enclosed in a single sealed envelope.

(3) The receiving board shall open the sealed envelope and review the poll book and statement of returns to determine both of the following:

(a) That the ballot container is properly sealed and the seal number is properly recorded in the poll book and the statement of returns. If the ballot container is not properly sealed or there is a discrepancy with the seal number recorded in the poll book or the statement of returns, the election inspectors who delivered the ballot container and the receiving board shall together take the necessary steps to correct the discrepancy. The election inspectors and the receiving board shall note the discrepancy and the corrective action in the remarks section of the poll book and all shall sign the notation.

(b) That the number of individuals voting recorded in the poll book equals the number of ballots issued to electors, as shown by the statement of returns. If the number of individuals voting as shown by the poll book does not equal the number of ballots counted as shown by the statement of returns, and if an explanation of the discrepancy has not been noted in the poll book, the receiving board shall ask the election inspectors about the discrepancy, note the explanation in the poll book, and all shall sign the notation.

(4) If the poll book or statement of returns has been erroneously sealed in the ballot container, the election inspectors may open the ballot container and remove the poll book or statement of returns. The elections inspectors and receiving board shall note the corrective action in the remarks section of the poll book and all shall sign the notation before placing the poll book or statement of returns in a separate sealed envelope. If the statement of returns was sealed in the ballot container and the poll book was sealed in an envelope, the poll book shall be removed from the sealed envelope for the notation of corrective action to be recorded before placing the poll book and statement of returns in a sealed envelope. The receiving board shall notify the clerk of the board of canvassers responsible for canvassing all or a portion of the election of the corrective action taken.

(5) When the receiving board has completed the review under subsection (3), the receiving board shall place the poll book and statement of returns in the appropriate envelope, sealed with a red paper seal and initialed by the receiving board. If permitted by the clerk of the board of canvassers, the poll books and statement of returns from more than 1 precinct may be included and delivered in a single envelope.

**History:** Add. 2004, Act 256, Imd. Eff. July 23, 2004;—Am. 2012, Act 271, Eff. Aug. 15, 2012.

**Popular name:** Election Code

#### **168.680 Precinct election inspectors; oath of office.**

Sec. 680. Each precinct election inspector shall, before entering upon the discharge of his duties, take and subscribe the following constitutional oath of office, which oath any of the inspectors may administer: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of inspector of elections according to the best of my ability."

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.681 Repealed. 1980, Act 188, Imd. Eff. July 3, 1980.**

**Compiler's note:** The repealed section pertained to right of precinct election inspectors to vote.

**Popular name:** Election Code

#### **168.682 Election officials; compensation.**

Sec. 682. Any person employed as an inspector of election, or in any other official capacity at any election, primary election, or on any board of canvassers or board of registration, shall, except as herein otherwise specifically provided, receive such reasonable compensation as may be allowed by the township board of any township, board of supervisors of any county or the legislative body of any city or village, as the case may be.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.683 Election inspectors; instruction, compensation, vacancies.**

Sec. 683. Each county clerk prior to each primary and election shall, by some reliable means, notify the clerk of each township and city in the county of a training school for election inspectors to be held at a place designated by the county clerk within 20 days prior to each primary, general and special election. The township and city clerks shall notify each election inspector appointed to serve at that election of the time and place of such training school. At such meeting, the county clerk shall instruct and demonstrate the manner in which the duties of election inspectors are required by law to be performed. It shall be the duty of the inspectors, so notified, to attend such meeting unless excused by the county clerk for good cause.

Compensation may be paid them therefor by their respective municipalities at such rate as may be determined by the governing bodies. No inspector of election shall serve in any election unless he shall have within the last preceding 2 years either attended an election school or shall have passed satisfactorily an examination given by the election commission of the city, township or village in which appointed. The examination shall be subject to the approval of the secretary of state. This section shall not prevent the appointment of an inspector of election to fill a vacancy. This section shall not prohibit any city or any township having a population of 10,000 or more from conducting its own training school for election inspectors of that city or township in which case election inspectors who have attended such school shall not be required to attend the county training school.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1962, Act 67, Eff. Mar. 28, 1963;—Am. 1963, Act 159, Eff. Sept. 6, 1963.

**Popular name:** Election Code

## PREPARATION, PRINTING AND DELIVERY OF OFFICIAL BALLOTS

### **168.684 Vignette; preparation, adoption, size; notice of change; provision of cuts.**

Sec. 684. The state central committee of each political party in this state shall prepare and adopt a vignette, to be printed at the top of the column of the official ballot assigned to such party, as a distinctive and characteristic heading thereto. Such vignette shall not be more than 1 1/2 inches square, and in addition to the device adopted shall set forth legibly the name of such party. The vignette shall remain as the heading for the column of such party on the ballots at all elections until changed by the state central committee of the party. Notice of any change of vignette shall be certified by the secretary of the state central committee to the secretary of state at least 4 months prior to the date of the primary or election at which the change shall be effective.

At least 3 months prior to any general election the secretary of state shall furnish each board of county election commissioners, in care of the county clerk, a true copy of the vignette filed by each political party entitled to a place on the ballots and the order in which the party columns shall appear thereon. The board of election commissioners of each county shall provide, at the expense of the county, a sufficient number of cuts of the several vignettes for use in printing the official ballots for any state, district or county election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961.

**Popular name:** Election Code

### **168.685 Printing name of candidate of new political party on ballot; certificate; petition to form new political party; disqualification and requalification of party; party subject to MCL 168.686a; prohibited conduct.**

Sec. 685. (1) The name of a candidate of a new political party shall not be printed upon the official ballots of an election unless the chairperson and secretary of the state central committee of the party files with the secretary of state, not later than 4 p.m. of the one hundred-tenth day before the general November election, a certificate signed by the chairperson and secretary of the state central committee bearing the name of the party, together with petitions bearing the signatures of registered and qualified electors equal to not less than 1% of the total number of votes cast for all candidates for governor at the last election in which a governor was elected. The petitions shall be signed by at least 100 registered electors in each of at least 1/2 of the congressional districts of the state. All signatures on the petitions shall be obtained not more than 180 days immediately before the date of filing.

(2) After the date on which a petition is filed, the secretary of state shall not accept additional petition sheets for that petition. The validity and authenticity of the signatures may be determined in the same manner as provided for initiatory and referendary petitions in section 9 of article II of the state constitution of 1963. An official declaration of the sufficiency or insufficiency of a petition filed under this section shall be made by the board of state canvassers not later than 60 days before the general November election.

(3) The petitions shall be in substantially the following form:

#### PETITION TO FORM NEW POLITICAL PARTY

We, the undersigned, duly registered electors of the  
city, township of ..... county of .....  
(strike one)

state of Michigan, residing at the places set opposite our  
names, respectfully request the secretary of state, in  
accordance with section 685 of the Michigan election law,  
1954 PA 116, MCL 168.685, to receive the certificate and  
vignette accompanying this petition, and place the names of

the candidates of the ..... party on the  
ballot at the ..... election.

Warning: A person who knowingly signs petitions to organize more than 1 new state political party, signs a petition to organize a new state political party more than once, or signs a name other than his or her own is violating the provisions of the Michigan election law.

.....  
.....  
.....

(4) The balance of the petition form shall be substantially as set forth in section 544c. The size of all organizing petitions shall be 8-1/2 inches by 13 inches and shall be printed in the following type sizes: The words "petition to form new political party" and the name of the proposed political party shall be in 24-point boldface type; the word "warning" and the language contained in the warning shall be in 12-point boldface type.

(5) Petitions circulated under this section may be circulated on a countywide basis. A petition that is circulated countywide shall be on a form prescribed by the secretary of state.

(6) If the principal candidate of a political party receives a vote equal to less than 1% of the total number of votes cast for the successful candidate for the office of secretary of state at the last preceding general November election in which a secretary of state was elected, that political party shall not have the name of any candidate printed on the ballots at the next ensuing general November election, and a column shall not be provided on the ballots for that party. A disqualified party may again qualify and have the names of its candidates printed in a separate party column on each election ballot in the manner set forth in subsection (1) for the qualification of new parties. The term "principal candidate" of a political party means the candidate who receives the greatest number of votes of all candidates of that political party for that election.

(7) A political party that complied with this section is subject to section 686a in order to have the name of that party, its vignette, and its candidates appear on the general election ballot.

(8) A person shall not knowingly sign a petition to organize more than 1 new state political party, sign a petition to organize a new state political party more than once, or sign a name other than his or her own on the petition.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1965, Act 312, Eff. Jan. 1, 1966;—Am. 1973, Act 28, Imd. Eff. June 14, 1973;—Am. 1976, Act 94, Imd. Eff. Apr. 22, 1976;—Am. 1988, Act 116, Eff. Nov. 9, 1988;—Am. 1990, Act 329, Imd. Eff. Dec. 21, 1990;—Am. 2002, Act 399, Imd. Eff. May 30, 2002.

**Constitutionality:** The Michigan supreme court, in *Socialist Workers Party v. Secretary of State*, 412 Mich. 571, 317 N.W.2d 1 (1982), held that Act No. 94 of the Public Acts of 1976, which amended this section, violates the first and fourteenth amendments and Const. 1963, Art. 1, § 2 and Art. 2, § 4.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

## **168.686 State convention; canvass of returns; certification of nominees; presidential and vice-presidential candidates.**

Sec. 686. Within 24 hours after the conclusion of the state convention before a general election, the state central committee of each political party shall canvass the proceedings of the convention and determine the nominees of the convention. Not more than 1 business day after the state convention, the chairperson and secretary of the state central committee shall forward to the secretary of state, a typewritten or printed list of the names and residence, including the street address if known, of all candidates nominated at the state convention. In each presidential election year, the state central committee of each political party shall, not more than 1 business day after the state convention or the national convention of that party, whichever is later, forward to the secretary of state the typewritten or printed names of the candidates of that party for the offices of president of the United States and vice-president of the United States certified to by the chairperson and secretary of the committees. A party is not required to certify nominations made at an official primary election. The secretary of state shall forward a copy of a list received under this section to the board of election commissioners of each county, in care of the county clerk at the county seat.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2003, Act 284, Imd. Eff. Jan. 8, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, Rendered Friday, February 3, 2017

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provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_  
No \_\_\_\_\_”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.686a Nomination by caucus or convention where no candidate polls 5% of vote cast for candidates for secretary of state.**

Sec. 686a. (1) If a political party entitled to a position on the ballot failed to have at least 1 candidate who polled at least 5% of the total vote cast for all candidates for secretary of state at the last preceding election at which a secretary of state was elected, candidates for that political party shall be nominated as provided in section 532. County caucuses and state conventions for such political parties shall be held not later than the August primary.

(2) County caucuses may nominate candidates for the office of representative in congress, state senator, and state representative if the offices represent districts contained wholly within the county, and for all county and township offices. Not more than 1 business day after the conclusion of the caucus, the names and mailing addresses of all candidates so nominated and the offices for which they were nominated shall be certified by the chairperson and secretary of the caucus to the county clerk. The certification shall be accompanied by an affidavit of identity for each candidate named in the certificate as provided in section 558 and a separate written certificate of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. If a candidate is so certified with the accompanying affidavit of identity and certificate of acceptance, the name of the candidate shall be printed on the ballot for that election. Candidates nominated and certified shall not be permitted to withdraw.

(3) The county caucus may also select the number of delegates to the state convention to which the county is entitled and shall select its own officers and name its own county committee.

(4) The state convention shall be held at the time and place indicated in the call. The convention shall consist of delegates selected by the county caucuses. The convention may fill vacancies in a delegation from qualified electors of that county present at the convention. The convention may nominate candidates for all state offices. District candidates may be nominated at district caucuses held in conjunction with the state convention attended by qualified delegates of the district. If delegates of a district are not present, a district caucus shall not be held for that district and candidates shall not be nominated for that district. Not more than 1 business day after the conclusion of the convention, the names and mailing addresses of the candidates nominated for state or district offices shall be certified by the chairperson and secretary of the state convention to the secretary of state. The certification shall be accompanied by an affidavit of identity for each candidate named in the certificate as provided in section 558 and a separate written certificate of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. The names of candidates so certified with accompanying affidavit of identity and certificate of acceptance shall be printed on the ballot for the forthcoming election. Candidates so nominated and certified shall not be permitted to withdraw.

**History:** Add. 1961, Act 223, Eff. Sept. 8, 1961;—Am. 1973, Act 28, Imd. Eff. June 14, 1973;—Am. 1976, Act 3, Imd. Eff. Feb. 3, 1976;—Am. 1988, Act 116, Eff. Nov. 9, 1988;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

“If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be

invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable.”

**Popular name:** Election Code

#### **168.686b Nonmajor political party; notice of county caucus or state convention.**

Sec. 686b. A political party that is not a major political party, as defined in section 16, and that is required to nominate candidates at a county caucus or state convention shall, at least 10 days before holding the county caucus or state convention to nominate candidates, notify in writing the secretary of state and the bureau of elections of the date, time, and location of the county caucus or state convention of that political party.

**History:** Add. 2012, Act 272, Imd. Eff. July 3, 2012.

**Popular name:** Election Code

#### **168.687 Certification of nominations by board of canvassers.**

Sec. 687. The board of canvassers, whose duty it is to determine who are nominated for public office at any official primary election, shall forthwith, upon such determination, certify the nomination as follows:

For an office to be filled by the electors of the state at large, to the board of election commissioners of each county and to the secretary of state;

For a district office, to the board of election commissioners of each county, the whole or part of which county forms a part of the district, or to the board of election commissioners of the county, a part of which forms the district and to the secretary of state;

For a county office, to the board of election commissioners of the county; and

For a city or ward office, to the board of election commissioners of the city.

Each certificate shall set forth the name of the candidate, the office for which and the party on whose ticket he was nominated and, if for a district office, shall designate the district.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1961, Act 223, Eff. Sept. 8, 1961.

**Popular name:** Election Code

#### **168.688 Certificates of nomination; delivery.**

Sec. 688. All certificates of nomination required to be made to the board of election commissioners of any county shall be delivered to the county clerk, or forwarded to him by registered or certified mail with return receipt demanded, and such county clerk shall deliver such certificate to the county board of election commissioners at its first meeting thereafter.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

#### **168.689 Official ballots; preparation, printing.**

Sec. 689. The board of election commissioners of each county shall prepare the official ballots for use at any state, district or county election held therein, and shall have printed a sufficient number of ballots containing the names of all candidates properly certified to said board of election commissioners, and ballots for all proposed constitutional amendments or other questions to be submitted at such election to supply each election precinct in such county with a sufficient number for such precinct, and not less than 25% more than the total number of votes cast therein at the corresponding election held 4 years previous for the office which received the greatest number of votes.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.690 Official ballots; delivery to township, village and city clerks; duties of township and municipal election boards.**

Sec. 690. The township, city, or village board of election commissioners for each jurisdiction conducting the election shall have the ballots required for a regular or special township, village, city, school, or community college election, or official primary election for the nomination of candidates for township, city, ward, or community college offices, to be printed and delivered to the election commission's township, village, or city clerk at least 10 days before the election. The duties imposed upon county boards of election commissioners and upon county, township, and city clerks relative to the printing, counting, packaging, sealing, and delivery of official ballots are imposed upon the township and municipal boards of election commissioners and the township, village, or city clerks relative to the printing, counting, packaging, sealing, and delivery of official ballots for use in each precinct of the township, village, or city at a municipal, township, village, school, or community college election.

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**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Popular name:** Election Code

**168.691 Official ballots; names of candidates; identification numeral; compliance.**

Sec. 691. (1) Each board of election commissioners shall have printed on the ballot, or on ballot labels or slips to be placed on a voting machine, when used, the names of the candidates certified to that board under this act. A candidate's name shall not be placed or printed in more than 1 column on the ballot for the same office. A board of election commissioners for a county or city may arrange the ballots with an identification numeral placed in the same space with the name of each of the candidates. That identification numeral shall be rotated with the name of the candidate, and when rotated, shall appear in the same space with the same candidate regardless of where the candidate's name appears on the ballot.

(2) The name of a candidate appearing on a ballot shall comply with sections 560b and 561.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Popular name:** Election Code

**168.692 Nomination by more than 1 party; choice; nomination for more than 1 office.**

Sec. 692. Any person nominated at a primary election by more than 1 political party, or certified as a nominee by more than 1 political party, or nominated by 1 political party and thereafter certified as a nominee by another political party, shall be notified of such dual nominations by registered or certified mail with a return receipt demanded, by the county clerk, or clerks of the several counties affected if for a state or district office, immediately upon certification to him of such nominations by the board of canvassers or by the party committees, as the case may be. Such person shall, within 3 days after the receipt of said notification, advise the county clerk or clerks in writing in which political party column it is desired that his or her name be printed or placed on the ballots or voting machines for the ensuing election. Any person who has been certified for more than 1 office, except where 2 or more offices may be legally combined, shall be notified in a like manner and shall, within 3 days of receipt thereof, advise the county clerk or clerks of the particular office for which he desires to be a candidate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956.

**Popular name:** Election Code

**168.692a Qualifying petition not to be filed by certain persons.**

Sec. 692a. A person who files a partisan nominating petition or filing fee as a candidate of a political party, or who is nominated by a political party convention, committee, or caucus and accepts the nomination, shall not file a qualifying petition under chapter XXIVA for an office to be elected at that election or at an election held during the same calendar year.

**History:** Add. 1988, Act 116, Imd. Eff. May 2, 1988.

**Compiler's note:** Section 2 of Act 116 of 1988 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

**168.693 Nomination by more than 1 party or for more than 1 office; failure to make choice; procedure.**

Sec. 693. Any person nominated at a primary or certified as a candidate by more than 1 political party for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, who fails to designate the particular office sought and the party column in which it is desired that his or her name be printed or placed on the ballots or voting machines for the ensuing election, as herein provided, shall have his or her name printed or placed on said ballots or voting machines by the proper board of election commissioners in the following manner:

(1) Should such candidate's name have been certified by more than 1 political party, it shall be printed or placed in the column of that party first making certification;

(2) Should such candidate be nominated at a primary by 1 political party pursuant to the filing of petitions and be certified as a candidate by another party for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, such candidate's name shall be printed or placed on the ballots or voting machines in the party column and for that office for which petitions were filed; or

(3) Should the name of such candidate be written or placed on the primary election ballots or voting

machines for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, by the electors of more than 1 political party without petitions having been filed or certification made, then the name of such candidate shall be printed or placed on the ballots or voting machines for the office and in the column of that party casting the greatest number of votes for such candidate at the preceding primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.694 Applicability of certain sections.**

Sec. 694. All the provisions of sections 691, 692, 693 and 695 of this act shall also apply to all city, village and township elections held in this state under the provisions of this act, except that the notice herein required to be given by a candidate shall, in case of a city, village or township office be given by him to the proper city, village or township board of election commissioners within 2 days after his name has been so certified as nominated by 2 or more political parties for the same office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.695 Ineligibility of candidate at subsequent election.**

Sec. 695. No person whose name was printed or placed on the primary ballots or voting machines as a candidate for nomination on the primary ballots of 1 political party shall be eligible as a candidate of any other political party at the election following that primary.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.696 Printing name of candidate for federal, state, district, county, and township offices on 1 ballot; separate column; filing request for clarifying designation of same or similar surnames; notice of determination; appeal; printing occupation, date of birth, or residence of candidate; incumbency designation; guidelines.**

Sec. 696. (1) The board of election commissioners in each county shall have the name of each candidate for federal, state, district, county, and township offices at an election printed on 1 ballot, separate from any other ballot. The name of each candidate of each political party shall be placed in a separate column on the ballot under the name and vignette of the party with the name of each candidate opposite the name of the office for which the candidate was certified to have been nominated.

(2) If, in a district that is a county or entirely within 1 county, 2 or more candidates nominated by the same political party or by different political parties for the same office, or nonpartisan candidates for the same office, have the same or similar surnames, a candidate may file a written request with the board of county election commissioners for a clarifying designation. The request shall be filed not later than 3 days after the certification of the relevant candidates. Not later than 3 days after the filing of the request, the board of county election commissioners shall determine whether a similarity exists and whether a clarifying designation should be granted. In a district located in more than 1 county, the board of state canvassers shall make a determination whether to grant a clarifying designation upon the written request of a candidate who is certified by the secretary of state. The request shall be filed with the state board of canvassers not later than 3 days after the state board of canvassers completes the canvass of the primary election in compliance with section 581 and the certification of nominees in compliance with section 687. The board of state canvassers shall make its determination not later than 3 days after the request is filed.

(3) In each instance, the determining board shall immediately notify each candidate for the same office as the requester that a request for a clarifying designation has been made and of the date, time, and place of the hearing. The requester and each candidate for the same office shall be notified of the board's determination by first-class mail sent within 24 hours after the final date for the determination. A candidate who is dissatisfied with the determination of the board of county election commissioners may file an appeal in the circuit court of the county where the board is located. A candidate who is dissatisfied with the determination of the board of state canvassers may file an appeal in the Ingham county circuit court. The appeal shall be filed within 14 days after the final date for determination by the board. The court shall hear the matter de novo. Except as provided in subsection (4), in the case of the same surname or of a final determination by the board or by the court before the latest date that the board can arrange for the ballot printing of the existence of similarity, the board shall print the occupation, date of birth, or residence of each of the candidates having the same or similar surnames on the ballot or ballot labels or slips to be placed on the voting machine, when used, under their respective names. The request may not be made by a candidate of a political party whose candidate for

secretary of state received less than 10% of the total vote cast in the state for all candidates for secretary of state in the most recent November election in which a secretary of state was elected. The term "occupation" includes a currently held political office, even though it is not the candidate's principal occupation, but does not include reference to a previous position or occupation.

(4) If there are 2 candidates with the same or similar surnames and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, no other designation shall be provided for the other candidate with the same or similar surname. If there are more than 2 candidates with the same or similar surname and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, a clarifying designation may be given to the other candidates with the same or similar surname. Except for an incumbency designation under section 24 of article VI of the state constitution of 1963, if 2 or more candidates with the same or similar surnames are related, the board shall only print the residence or date of birth of each of the candidates as a clarifying designation. As used in this subsection, "related" means that the candidates with the same or similar surnames are related within the third degree of consanguinity.

(5) The board of state canvassers shall issue guidelines to ensure fairness and uniformity in the granting of designations and may issue guidelines relating to what constitutes the same or similar surnames. The board of state canvassers and the boards of county election commissioners shall follow the guidelines.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 328, Imd. Eff. July 19, 1966;—Am. 1967, Act 36, Eff. Nov. 2, 1967;—Am. 1976, Act 260, Imd. Eff. Aug. 12, 1976;—Am. 2002, Act 163, Imd. Eff. Apr. 9, 2002.

**Compiler's note:** This section was also amended by Act 240 of 1964, but that act was disapproved by the voters at the November election in 1964.

**Popular name:** Election Code

#### **168.697 General November election; order of placing offices on ballot.**

Sec. 697. At the general November election, the names of the several offices to be voted for shall be placed on the ballot substantially in the following order in the years in which elections for such offices are held: Electors of president and vice-president of the United States; governor and lieutenant governor; secretary of state; attorney general; United States senator; representative in congress; senator and representative in the state legislature; members of the state board of education; regents of the university of Michigan; trustees of Michigan state university; governors of Wayne state university; county executive; prosecuting attorney; sheriff; clerk; treasurer; register of deeds; auditor in counties electing an auditor; mine inspector in counties electing a mine inspector; county road commissioners; drain commissioners; coroners; and surveyor. The following township officers shall be placed on the same ballot as above described in substantially the following order in the year in which elections for such offices are held: supervisor, clerk, treasurer, trustees, and constables.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1956, Act 88, Imd. Eff. Apr. 5, 1956;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1965, Act 131, Imd. Eff. July 8, 1965;—Am. 1966, Act 58, Imd. Eff. June 7, 1966;—Am. 1976, Act 260, Imd. Eff. Aug. 12, 1976.

**Popular name:** Election Code

#### **168.698 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.**

**Compiler's note:** The repealed section provided for a separate presidential ballot.

**Popular name:** Election Code

#### **168.699 Nonpartisan offices; placement on separate portion of ballot; order of listing offices.**

Sec. 699. At any regular election, the names of the several nonpartisan offices to be voted for shall be placed on a separate portion of the ballot containing no party designation in the following order: justices of the supreme court, judges of the court of appeals, judges of the circuit court, judges of the probate court, judges of the district court, community college board of trustees member, intermediate school district board member, city officers, the following village officers in substantially the following order in the year in which elections for the offices are held: president, clerk, treasurer, and trustees, and in a year in which an election for the office is held, local school district board member, metropolitan district officer, and district library board member.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 2004, Act 297, Imd. Eff. July 23, 2004;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is

found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

#### **168.700 Repealed. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.**

**Compiler's note:** The repealed section pertained to placement of names on ballot at biennial spring election.

**Popular name:** Election Code

#### **168.701 Repealed. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.**

**Compiler's note:** The repealed section pertained to placement of names on ballot at biennial spring election.

**Popular name:** Election Code

#### **168.702 Official ballots; placing of name to fill vacancy.**

Sec. 702. The name of a candidate to fill a vacancy in any office shall be placed in the appropriate place on the ballot, regard being had to its being a state, congressional, legislative or county office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.703 Official ballots; position of parties.**

Sec. 703. The ticket of the party having the greatest number of votes in the state at the last election in which a secretary of state was elected, as shown by the votes cast thereat for secretary of state, shall be placed first on the ballot, the position of other party tickets to be governed relatively by the same rule.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.

**Popular name:** Election Code

#### **168.703a Repealed. 1988, Act 116, Imd. Eff. May 2, 1988.**

**Compiler's note:** The repealed section pertained to listing of candidates and incumbents on official ballots.

**Popular name:** Election Code

#### **168.704 Official ballots; size of voting squares or circles.**

Sec. 704. Every square which is printed on any ballot and which is intended as a place for an elector to mark his choice shall be not less than 3/8 of an inch square. Every circle which is printed on a ballot and which is intended as a place for an elector to mark his choice shall be not less than 1/2 of an inch in diameter.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.705 Official ballots; paper, printing, numbering, color of paper.**

Sec. 705. The ballots of each kind shall be of uniform size and printed in black ink on white paper of a grade equal to 50-pound book, machine finished, and sufficiently thick so that the printing cannot be distinguished from the back. The ballots of each kind shall be perforated diagonally across the upper right-hand corner of the face thereof, so that the corner can be readily torn off. Printed on the detachable corner shall be the name or kind of ballot, and a bold-face letter corresponding to a similar letter on the ballot box. The ballots shall be numbered consecutively on such corner, such number to be printed thereon. This section shall not prohibit the printing of unnumbered ballots for emergency purposes. Such ballots shall, prior to being delivered to the polls, have the numbers printed or stamped on the detachable corners. No 2 ballots of the same kind in the same election precinct shall bear the same number. The election commission may provide for the printing of the ballots on colored paper as follows: State and county ballots, white paper; non-partisan ballots, blue tinted paper; constitutional amendments and state propositions, red tinted paper; county propositions, green tinted paper; local propositions, buff paper; local candidates, white paper. If the election commission prints ballots on colored paper, all instruction ballots shall be printed on any color paper not used for official ballots.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958.

**Popular name:** Election Code

#### **168.706 Official ballot; arrangement; basis.**

Sec. 706. The arrangement of the ballot containing the names of candidates for office shall be prescribed by the secretary of state based upon the voting equipment being used in each county.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1963, 2nd Ex. Sess., Act 56, Eff.

Mar. 24, 1964;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 2012, Act 128, Imd. Eff. May 14, 2012.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_

No \_\_\_\_\_”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.707 Repealed. 2012, Act 276, Eff. Aug. 16, 2012.**

**Compiler's note:** The repealed section pertained to certification of ballot form relating to proposed constitutional amendment or other proposition to be submitted to electors.

**Popular name:** Election Code

**168.708 Proposed constitutional amendment or question; statement of purpose, publication.**

Sec. 708. The secretary of state shall duly prepare a concise statement setting forth the nature of any such proposed amendment or other proposition and shall send copies of said statement to the several daily and weekly newspapers published in the state, prior to the election, with a request that said papers give as wide publicity as possible to said proposed amendment or other proposition. Publication of any matter by any paper under the provisions of this section shall be without expense or cost to the state.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.709 Proposed constitutional amendment or question; statement of purpose, copies to voting precincts, posting.**

Sec. 709. The secretary of state shall also furnish the several county clerks in the state at least 2 copies of each such statement on paper suitable for posting for each voting precinct in their respective counties. The county clerk shall furnish the said copies of such statement to the several city and township clerks in his county at the time other supplies for the election are furnished, and said city and township clerks shall, before the opening of the polls on election day, deliver 2 copies of such statement to each voting precinct in his city or township, to the board of election inspectors of said precinct, who shall post the same in conspicuous places in the room where such election is held.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.710 Proposed constitutional amendment or question; proof copies of ballots, filing, public inspection.**

Sec. 710. The county board of election commissioners shall place on file at the office of the county clerk, at least 15 days prior to any election, proof copy of the official ballot containing the names of candidates for public office to be voted for at such election, and such proof copies shall be open for public inspection.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.711 Filing and mailing proof copies of ballots; affidavit; certification; correction and printing of ballots; forwarding copy to secretary of state.**

Sec. 711. At the time of filing the proof copy of the ballot at the office of the county clerk, the county board of election commissioners shall send in counties with a population of 1,500,000 or more by registered or certified mail, with a return receipt demanded, and in counties with less than 1,500,000 by first class mail a proof copy of the official ballot to each candidate whose name appears on the ballot at the candidate's last known address. The county clerk shall prepare and sign an affidavit when sending proof ballots which: attests that proof ballots were mailed as required; lists the candidates who were mailed ballots; the address to which the ballots were mailed; and lists the date or dates proof ballots were mailed. The board of election commissioners shall also send 2 copies of proof ballots to the secretary of state who shall immediately approve and certify the ballot or notify the board of election commissioners of any correction. If a candidate desires to correct the ballot, the candidate shall forward the ballot to the county clerk within 2 business days of the receipt of the ballot with the corrections noted on the ballot. The board of election commissioners shall correct errors found in the ballot by the inspection provided for in this section and at the expiration of the 2-day correction period shall proceed with the printing of the ballots. The county clerk shall forward a copy of the corrected ballot to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 190, Imd. Eff. Apr. 26, 1956;—Am. 1984, Act 113, Imd. Eff. May 29, 1984.

**Popular name:** Election Code

**168.712 Ballots; omissions or mistakes; reprinting.**

Sec. 712. If the name of any candidate regularly certified to the board of election commissioners is omitted from the ballots, or if it is found that a mistake has been made in the printing of the name of any candidate on the ballot, the board of election commissioners shall have the ballots reprinted with the candidate's name on the ballots.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2012, Act 276, Eff. Aug. 16, 2012.

**Popular name:** Election Code

**168.713 Delivery of ballots and supplies to county clerk.**

Sec. 713. The county board of election commissioners shall cause the ballots required for any regular or special election or official primary election in the county, wrapped and tied as required by this act, to be delivered to the county clerk at the earliest possible time after the approval of the proof of the ballots, and absent voter ballots shall be delivered to the county clerk at least 47 days before any election or primary election. All other ballots and election supplies shall be delivered to the county clerk at least 12 days before any election or primary election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 171, Imd. Eff. Apr. 16, 1956;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 2010, Act 51, Imd. Eff. Apr. 22, 2010.

**Popular name:** Election Code

**168.714 Delivery of ballots and supplies to township and city clerks; receipt of delivery; deadlines.**

Sec. 714. (1) The county clerk of each county, at the earliest possible time and at least 45 days before a regular election or special election in the county, shall cause to be delivered to the clerk of each township and city in the county the absent voter ballots for each precinct.

(2) The county clerk of each county shall cause to be delivered ballots, other than absent voter ballots, and election supplies to the clerk of each township and city in the county at least 10 days before any election or primary election.

(3) The county clerk shall take receipt from each township and city clerk for all ballots and supplies delivered to that clerk.

(4) Each city, township, and village clerk shall adhere to the deadlines provided in this section for elections in which the county does not print the ballots.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 171, Imd. Eff. Apr. 16, 1956;—Am. 1981, Act 61, Imd. Eff. June 5, 1981;—Am. 1981, Act 127, Imd. Eff. Sept. 29, 1981;—Am. 1981, Act 140, Imd. Eff. Oct. 30, 1981;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 2010, Act 43, Imd. Eff. Mar. 31, 2010.

**Popular name:** Election Code

**168.715 Absent voters' and other ballots; duties of township and city clerks, delivery to voting precinct boards of election inspectors.**

Sec. 715. It shall be the duty of county, city and township clerks to keep safeguarded all official ballots for absent voters' use. The said township or city clerk shall have the right to open the package or packages of absent voter ballots received by him for any precinct in his township or city, provided he shall receive application for absent voter ballots from any qualified elector of such precinct, but not otherwise. He shall in no case open any of the other packages of official ballots but shall keep them intact in some safe and secure place, and shall deliver them and other election supplies, together with the absent voter ballots remaining in his possession, to the chairman or some member of the board of inspectors of election of the proper precinct or precincts of his township or city, as the case may be, before 7 o'clock in the forenoon of the day of election. On delivery of said ballots to the chairman or some other member of the board of election, said clerk shall take a receipt therefor, which receipt he shall file in his office.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.716 Absent voters' and other ballots; wrapping, sealing.**

Sec. 716. The ballots of each kind for each election precinct shall be wrapped and secured in 2 separate packages. Each package shall be securely sealed with a red paper seal furnished by the secretary of state and shall bear on its wrapper the name and number of the precinct and a certificate signed by the county clerk or some member of the board of county election commissioners or his or its duly authorized agent, setting forth the number and kind of ballots in such package and that such ballots were counted, packaged and sealed by himself personally, or by his duly authorized agent.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.717 Absent voters' ballots; numbering, packaging, marking.**

Sec. 717. At least 3% of the total number of ballots of each kind to which each precinct is entitled, together with such additional number as the county clerk, upon a proper showing by the respective township or city clerks, may deem to be necessary, beginning with ballot No. 1 and including the consecutive numbers thereafter, shall be enclosed in 1 package, as many as are necessary thereof to be used for absent voters as provided by law: Provided, however, That such county clerk may deliver to each township or city clerk a sufficient number of each kind of such absent voters' ballots for each township and city in the county with numbers higher than those on any other ballots delivered to such township or city clerk, in which case the unused absent voters' ballots of such higher numbers shall remain in the possession of the clerk for contingencies, and further reference had in this act to the disposition of absent voters' ballots bearing the regular precinct numbers shall not apply to such ballots. Each package of absent voters' ballots shall be plainly marked on the outside, "Absent voters' ballots". The remainder of the ballots of each kind for such precinct shall be enclosed in a second package, sealed as above provided.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.717a Absent voters' ballots where voting machines used exclusively; form, contents, discontinuance.**

Sec. 717a. (1) Notwithstanding any provision of law to the contrary, in cities, villages or townships where voting machines are used exclusively, the absent voter ballots for all elections, if ordered by resolution of the election commission thereof, and approved by the election commission of the county, may be a consolidated ballot and be a replica of the face of the voting machine, both as to arrangement and coloring, with the following exceptions:

(a) The absent voter ballot need not be of the same size as the face of the voting machine, but may be reduced by not more than 1/3. The instructions to the absent voter shall be printed thereon. In place of the party lever, a circle shall be shown; and in place of the individual candidate levers, squares shall be shown. The circle shall be not less than 1/4 inch in diameter and the squares shall be not less than 3/16 inch square.

(b) The names of candidates for each office or proposal shall be arranged on the absent voter ballot by precinct in the same manner as on the voting machines used in that precinct. The ballots shall be numbered consecutively from 1 upwards in the upper right hand corner, on the front side thereof. The ballot shall be perforated diagonally across the upper right hand corner so that the number can be readily torn off.

(c) The instructions to the absent voter printed on the absent voter ballot shall be prepared by the clerk of the city, village or township and shall follow as nearly as possible the instructions for voting of regular paper ballots.

(2) In counties where voting machines are used exclusively throughout said county the absent voter ballots

for all county-wide and state-wide elections, if ordered by resolution of the election commission of the county, may be a consolidated ballot and a replica of the face of the voting machine, both as to arrangement and coloring with the exceptions herein before noted.

(3) The clerk of any city, village or township, the election commission of which has ordered the absent voter ballot for all elections held therein to be in the form described in this section, shall certify to the county clerk of the county in which the unit of government is located, a copy of the resolution so adopted. The county clerk shall furnish the city, village or township absent voter ballots in the form established for all elections held thereafter in the city, village or township in which he is required to furnish ballots.

(4) If the election commission of any city, village or township after the adoption of such a resolution desires to discontinue the use of an absent voter ballot of the form established in this act, it may discontinue its use upon the adoption of a resolution. The clerk of the city, village or township shall thereupon certify to the county clerk of the county in which the unit of government is located a copy of the resolution so adopted.

**History:** Add. 1960, Act 29, Eff. Aug. 17, 1960;—Am. 1961, Act 119, Eff. Sept. 8, 1961.

**Popular name:** Election Code

#### **168.718 Official ballots; printer, acts prohibited; instruction ballots, printing.**

Sec. 718. It shall not be lawful for the printer of official ballots for use at any election, or any other person, to give or deliver any of said ballots to, or knowingly permit any of said ballots to be taken by, any person other than the board of election commissioners for which such ballots are being printed; or to print, or cause or permit to be printed, any ballots in any other form than the one prescribed by this act, or with any other name thereon, or with the names misspelled, or the names, devices or designs therein arranged in any other way than that authorized and directed by the said board of election commissioners; but it shall be lawful for said board of election commissioners and upon its authorization for the chairman and candidates named on the official ballots to procure any number of facsimiles thereof to be printed on red, yellow or blue paper and to circulate the same for the purpose of the instruction of voters. Said colored facsimiles shall have printed at the head the words "Instruction Ballot".

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.719 City, township and village election commissions; duties; party committees, duties; proof copy of ballot, public inspection.**

Sec. 719. The election commission of each city, township and village shall perform such duties relative to the preparation, printing and delivery of ballots as are required by law of the boards of election commissioners of counties. Like duties and privileges as are enjoined and granted by this act upon and to the various committees of the different political organizations are hereby prescribed for city, village or township committees in matters pertaining to any city, village or township election, except that it shall not be necessary for a city, township or village committee of a political party or organization to furnish a vignette or heading for the ballots other than to designate the name of the party or political organization which they represent. In cities, villages and townships the names of candidates for city, township or village offices, as the case may be, shall be given by the committees of the various political organizations to the board of election commissioners of such city, village or township not less than 18 days before each election, but it shall not be necessary for any party committee to give to the board of election commissioners the name of any candidate nominated at an official primary election. The proof of the ballot shall be open to public inspection at the office of the township, city or village clerk, not less than 15 days before such election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### **CONDUCT OF ELECTIONS AND MANNER OF VOTING**

#### **168.720 Polls; times of opening and closing.**

Sec. 720. On the day of any election, the polls shall be opened at 7 o'clock in the forenoon, and shall be continuously open until 8 o'clock in the afternoon and no longer. Every qualified elector present and in line at the polls at the hour prescribed for the closing thereof shall be allowed to vote.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.721 Polls; opening and closing governed by central standard time.**

Sec. 721. Unless otherwise specified, the hours for the opening and closing of polls and for the conducting

of elections shall be governed by eastern standard time: Provided, however, That in the counties where central standard time is the observed time of any such county, the opening and closing of the polls and the conducting of elections may be governed by central standard time, upon resolution to such effect adopted by the county board of supervisors.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.722 Polls; announcement of opening and closing.**

Sec. 722. The chairman or an inspector designated by him shall announce to those present at the polling places, the opening of the polls and the closing of the polls.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1963, Act 224, Eff. Sept. 6, 1963.

**Popular name:** Election Code

#### **168.723 Ballot boxes; examination, locking.**

Sec. 723. Before opening the polls, each ballot box to be used at the election shall be examined by the board of inspectors of election and the contents, if any, removed therefrom; it shall then be locked, and the key thereof delivered to 1 of the inspectors, to be designated by the board. The said box shall not be opened during the election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.724 Ballots; opening packages; distribution of pencils; unused absent voters' ballots.**

Sec. 724. At the opening of the polls, after the organization of and in the presence of the board of inspectors, 1 of the inspectors shall open the packages of ballots in such a manner as to preserve the seal intact. He shall then place in the booths the pencils to be used for marking ballots. The unused absent voters' ballots shall be the first used by the board of inspectors of election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.725 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.**

**Compiler's note:** The repealed section provided for manner of initialing ballots.

**Popular name:** Election Code

#### **168.726 Ballots; delivery to elector.**

Sec. 726. No ballots shall be delivered to an elector by any person other than 1 of the inspectors of election and only within the polling place, except as provided in this act for absent voters' ballots.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.727 Challenge; duty of election inspector; indiscriminate challenge; penalty.**

Sec. 727. (1) An election inspector shall challenge an applicant applying for a ballot if the inspector knows or has good reason to suspect that the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant's name in the registration book. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that individual is not a registered elector in that precinct. An election inspector or other qualified challenger may challenge the right of an individual attempting to vote who has previously applied for an absent voter ballot and who on election day is claiming to have never received the absent voter ballot or to have lost or destroyed the absent voter ballot.

(2) Upon a challenge being made under subsection (1), an election inspector shall immediately do all of the following:

- (a) Identify as provided in sections 745 and 746 a ballot voted by the challenged individual, if any.
- (b) Make a written report including all of the following information:
  - (i) All election disparities or infractions complained of or believed to have occurred.
  - (ii) The name of the individual making the challenge.
  - (iii) The time of the challenge.
  - (iv) The name, telephone number, and address of the challenged individual.
  - (v) Other information considered appropriate by the election inspector.

(c) Retain the written report created under subdivision (b) and make it a part of the election record.

(d) Inform a challenged elector of his or her rights under section 729.

(3) A challenger shall not make a challenge indiscriminately and without good cause. A challenger shall not handle the poll books while observing election procedures or the ballots during the counting of the ballots. A challenger shall not interfere with or unduly delay the work of the election inspectors. An individual who challenges a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

--Eliminate “straight party” vote option on partisan general election ballots.

--Require Secretary of State to obtain training reports from local election officials.

--Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

--Require expedited canvass if presidential vote differential is under 25,000.

--Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_

No \_\_\_\_\_

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.728 Challenges; disposition.**

Sec. 728. If at the time a person proposing to vote is challenged, there are several persons awaiting their turn to vote, said challenged person shall stand to one side until after unchallenged voters have had an opportunity to vote, when his case shall be taken up and disposed of.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.729 Challenges; oath, questions as to qualifications; false statements, penalty.**

Sec. 729. If any person attempting to vote shall be challenged as unqualified, he shall be sworn by 1 of the inspectors of election to truthfully answer all questions asked him concerning his qualifications as an elector and any inspector or qualified elector at the poll may question said person as to such qualifications. If the answer to such questions show that said person is a qualified elector in that precinct, he shall be entitled to receive a ballot and vote. Should the answers show that said person is not a qualified elector at that poll, he shall not be entitled to receive a ballot and vote. If any one of his answers concerning a material matter shall not be true, he shall, upon conviction, be deemed guilty of perjury.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.730 Designation, qualifications, and number of challengers.**

Sec. 730. (1) At an election, a political party or an incorporated organization or organized committee of citizens interested in the adoption or defeat of a ballot question being voted for or upon at the election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, may designate challengers as provided in this act. Except as otherwise provided in this act, a political party, incorporated organization, or organized committee of interested citizens may designate not more than 2 challengers to serve in a precinct at any 1 time. A political party, incorporated organization, or organized committee of interested citizens may designate not more than 1 challenger to serve at each counting board.

(2) A challenger shall be a registered elector of this state. Except as otherwise provided in this section, a

candidate for nomination or election to an office shall not serve as a challenger at the election in which he or she is a candidate. A candidate for the office of delegate to a county convention may serve as a challenger in a precinct other than the 1 in which he or she is a candidate. A person who is appointed as an election inspector at an election shall not act as a challenger at any time during the election day.

(3) A challenger may be designated to serve in more than 1 precinct. The political party, incorporated organization, or organized committee of interested citizens shall indicate which precincts the challenger will serve when designating challengers under subsection (1). If more than 1 challenger of a political party, incorporated organization, or organized committee of interested citizens is serving in a precinct at any 1 time, only 1 of the challengers has the authority to initiate a challenge at any given time. The challengers shall indicate to the board of election inspectors which of the 2 will have this authority. The challengers may change this authority and shall indicate the change to the board of election inspectors.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 248, Eff. Sept. 27, 1957;—Am. 1966, Act 42, Imd. Eff. May 26, 1966;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### **168.731 Challengers; statement of appointment by organization; contents; authorization; appointment without authorization; penalty.**

Sec. 731. (1) Not less than 20 and not more than 30 days before an election, an incorporated organization or organized committee of interested citizens other than political party committees authorized by this act intending to appoint challengers at the election shall file with the clerk of the county, city, village or township in which the election is to be held, a statement setting forth the intention of the organization or committee to appoint challengers. The statement shall set forth the reason why the organization or committee claims the right to appoint challengers, with a facsimile of the card to be used, and shall be signed and sworn to by the chief presiding officer, the secretary, or some other officer of the organization or committee. The clerk or secretary of state, as applicable under subsection (2), may deny an organization or committee the authorization to appoint challengers if that organization or committee fails to furnish evidence satisfactory to the clerk or secretary of state that the organization or committee is devoted to the purposes enumerated in section 730.

(2) Not later than 2 business days after receipt of a statement of intent to appoint challengers under subsection (1), a clerk shall approve or deny the organization's or committee's authorization to appoint challengers and notify the organization or committee of that approval or denial. If authorization is denied under this subsection, an organization or committee may appeal the denial with the secretary of state not later than 2 business days after receipt of the denial. Not later than 2 business days after receipt of an appeal of a denial under this subsection, the secretary of state shall review the clerk's denial and approve or deny the organization's or committee's authorization to appoint challengers and notify the organization or committee and the clerk of that decision.

(3) Before the opening of the polls, the clerk shall certify in writing to the board of election inspectors in a county, city, village, or township in which the election will be conducted the names of organizations and committees that are authorized under this section to appoint and keep challengers at the polling places in the county, city, village, or township.

(4) A person who files a statement under this section on behalf of an organization or committee that is not authorized by this act to appoint challengers or a clerk who knowingly fails to perform the duties required by this section is guilty of a felony, punishable by a fine of not more than \$1,000.00, or by imprisonment for not more than 2 years, or both.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### **168.732 Presence of challenger in room containing ballot box; evidence of right to be present.**

Sec. 732. Authority signed by the recognized chairman or presiding officer of the chief managing committee of any organization or committee of citizens interested in the adoption or defeat of any measure to be voted for or upon at any election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, or of any political party in such county, township, city, ward or village, shall be sufficient evidence of the right of such challengers to be present inside the room where the ballot box is kept, provided the provisions of the preceding sections have been complied with. The authority shall have written or printed thereon the name of the challenger to whom it is issued and the number of the precinct to which the challenger has been assigned.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 42, Imd. Eff. May 26, 1966;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972

**Popular name:** Election Code

**168.733 Challengers; space in polling place; rights; space at counting board; expulsion for cause; protection; threat or intimidation.**

Sec. 733. (1) The board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote. A challenger may do 1 or more of the following:

(a) Under the scrutiny of an election inspector, inspect without handling the poll books as ballots are issued to electors and the electors' names being entered in the poll book.

(b) Observe the manner in which the duties of the election inspectors are being performed.

(c) Challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector.

(d) Challenge an election procedure that is not being properly performed.

(e) Bring to an election inspector's attention any of the following:

(i) Improper handling of a ballot by an elector or election inspector.

(ii) A violation of a regulation made by the board of election inspectors pursuant to section 742.

(iii) Campaigning being performed by an election inspector or other person in violation of section 744.

(iv) A violation of election law or other prescribed election procedure.

(f) Remain during the canvass of votes and until the statement of returns is duly signed and made.

(g) Examine without handling each ballot as it is being counted.

(h) Keep records of votes cast and other election procedures as the challenger desires.

(i) Observe the recording of absent voter ballots on voting machines.

(2) The board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots. A challenger at the counting board may do 1 or more of the activities allowed in subsection (1), as applicable.

(3) Any evidence of drinking of alcoholic beverages or disorderly conduct is sufficient cause for the expulsion of a challenger from the polling place or the counting board. The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.

(4) A person shall not threaten or intimidate a challenger while performing an activity allowed under subsection (1). A challenger shall not threaten or intimidate an elector while the elector is entering the polling place, applying to vote, entering the voting compartment, voting, or leaving the polling place.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Popular name:** Election Code

**168.734 Challengers; preventing presence, penalty.**

Sec. 734. Any officer or election board who shall prevent the presence of any such challenger as above provided, or shall refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him, shall, upon conviction, be punished by a fine not exceeding \$1,000.00, or by imprisonment in the state prison not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.735 Poll book and poll list; contents.**

Sec. 735. (1) At each primary and election, election inspectors shall keep 1 poll book and 1 poll list. An election inspector shall enter in the poll book, in the order in which electors are given ballots, the name of each elector who is given a ballot and immediately after the name, on the same line, shall enter the number of the ballot given to the elector. For an absent voter ballot, when an election inspector removes the ballot from the sealed absent voter envelope, the election inspector shall enter in the poll book the name of the absent voter and the number of the ballot.

(2) If an elector is issued a provisional ballot, an election inspector shall enter a proper designation in the poll book, including whether the provisional ballot was tabulated in the precinct or was secured for verification after the election.

(3) At the completion of the precinct canvass, an election inspector shall record on the certificate provided in the poll book the number of each metal seal used to seal voting equipment and ballot containers. Each

member of the board of election inspectors shall sign the certificate.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 35, Imd. Eff. May 19, 1965;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Popular name:** Election Code

### **168.736 Voting; ballots, delivery to electors by numbers; assistance by election inspectors.**

Sec. 736. When an elector applying to vote shall not be challenged, or, having been challenged, if the answers to questions asked him while under oath as to his qualifications shall show that he is a qualified elector at that poll, he shall be permitted to vote. The inspector having charge of the ballots shall deliver to said elector 1 of each kind of said ballots to be voted at the election. All the ballots so given to an elector applying to vote shall bear the same number, beginning, for the first elector to whom ballots are given, with the lowest numbered ballots, the next higher number for the second such elector, and so on. On request of the elector, an inspector may give explanation of the manner of voting, and if by the board deemed necessary, an interpreter may be called, but the elector shall not be otherwise assisted in the marking of his ballot, except as provided in this act for assisted electors.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964.

**Popular name:** Election Code

### **168.736a Minor child in booth or compartment.**

Sec. 736a. Notwithstanding any other provision of this act to the contrary, a minor child may accompany an elector in the booth or voting compartment at an election under this act.

**History:** Add. 1996, Act 213, Imd. Eff. May 28, 1996.

**Popular name:** Election Code

### **168.736b Secrecy sleeve; primary election; instructions.**

Sec. 736b. Each ballot secrecy sleeve used at a primary election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

#### **PRIMARY ELECTION**

**TO VOTE:** Completely darken the oval opposite each choice.

-- OR --

**TO VOTE:** Complete the arrow opposite each choice.

**IMPORTANT:** To mark your ballot, use only a black or blue ink pen.

**DO NOT USE ANY OTHER INK COLOR!**

**PARTISAN SECTION:** There are two party sections on the ballot: Republican Party and Democratic Party. Select the party section of your choice. **YOU MAY VOTE IN ONE PARTY SECTION ONLY; YOU CANNOT "SPLIT YOUR TICKET." IF YOU VOTE IN MORE THAN ONE PARTY SECTION, YOUR PARTISAN BALLOT WILL BE REJECTED.**

**DO NOT** vote for more candidates than indicated under each office title.

**WRITE-IN CANDIDATES:** To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and (completely darken the oval) or (complete the arrow). Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.

**CHECK BOTH SIDES OF BALLOT:** This ballot has two sides. Be certain to check the reverse side of the ballot.

**WHEN YOU HAVE COMPLETED VOTING:** Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)

**NOTE:** If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012.

**Popular name:** Election Code

### **168.736c Secrecy sleeve; general election; instructions.**

Sec. 736c. Each ballot secrecy sleeve used at a general election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

#### **GENERAL ELECTION**

**TO VOTE:** Completely darken the oval opposite each choice.

-- OR --

**TO VOTE:** Complete the arrow opposite each choice.

**IMPORTANT:** To mark your ballot, use only a black or blue ink pen.

**DO NOT USE ANY OTHER INK COLOR!**

**PARTISAN SECTION:** To vote the partisan section of the ballot, you may cast a "mixed ticket."

**Mixed Ticket:** Vote for the individual candidates of your choice in each office.

**NONPARTISAN** and **PROPOSAL SECTIONS** of the ballot (if any) must be voted separately.

**DO NOT** vote for more candidates than indicated under each office title.

**WRITE-IN CANDIDATES:** To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and (completely darken the oval) or (complete the arrow). Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.

**CHECK BOTH SIDES OF BALLOT:** This ballot has two sides. Be certain to check the reverse side of the ballot.

**WHEN YOU HAVE COMPLETED VOTING:** Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)

**NOTE:** If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016.

**Popular name:** Election Code

### **168.736d Secrecy sleeve; nonpartisan election; instructions.**

Sec. 736d. Each ballot secrecy sleeve used at a nonpartisan election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

#### **NONPARTISAN ELECTION**

**TO VOTE:** Completely darken the oval opposite each choice.

-- OR --

**TO VOTE:** Complete the arrow opposite each choice.

**IMPORTANT:** To mark your ballot, use only a black or blue ink pen.

**DO NOT USE ANY OTHER INK COLOR!**

**DO NOT** vote for more candidates than indicated under each office title.

**WRITE-IN CANDIDATES:** To vote for a candidate whose name is not printed on the ballot, write or place the name of that candidate in the blank space provided and (completely darken the oval) or (complete the arrow). Do not cast a write-in vote for a candidate whose name is already printed on the ballot for that office.

**CHECK BOTH SIDES OF BALLOT:** This ballot has two sides. Be certain to check the reverse side of the ballot.

**WHEN YOU HAVE COMPLETED VOTING:** Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the

instructions provided by the clerk for returning the ballot.)

**NOTE:** If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012.

**Popular name:** Election Code

#### **168.736e Secrecy sleeve; special election; instructions.**

Sec. 736e. Each ballot secrecy sleeve used at a special election shall either contain the following ballot marking instructions printed on the front of the ballot secrecy sleeve or shall have a clear plastic pocket on the front of the ballot secrecy sleeve that contains a printed copy of the following ballot marking instructions:

##### **SPECIAL ELECTION**

**TO VOTE:** Completely darken the oval opposite each choice.

-- OR --

**TO VOTE:** Complete the arrow opposite each choice.

**IMPORTANT:** To mark your ballot, use only a black or blue ink pen.

**DO NOT USE ANY OTHER INK COLOR!**

**CHECK BOTH SIDES OF BALLOT:** This ballot has two sides. Be certain to check the reverse side of the ballot.

**WHEN YOU HAVE COMPLETED VOTING:** Place the ballot in the secrecy sleeve so that votes cannot be seen and the numbered stub is visible. Return the ballot to the election official stationed at the tabulator. (If voting by absentee ballot, follow the instructions provided by the clerk for returning the ballot.)

**NOTE:** If you make a mistake, return your ballot to the election official and obtain a new ballot. Do not attempt to erase or correct any marks made in error.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012.

**Popular name:** Election Code

#### **168.736f Ballot marking instructions; limitation.**

Sec. 736f. The ballot marking instructions as provided in sections 736b, 736c, 736d, 736e, and 764, are the only written ballot marking instructions that shall be provided to an elector.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012.

**Popular name:** Election Code

#### **168.736g Discontinued use of secrecy sleeve defaced, marred, or containing other mark.**

Sec. 736g. If a ballot secrecy sleeve used at an election or a ballot marking instruction sheet contained in a clear plastic pocket on the front of a ballot secrecy sleeve used at an election is defaced, marred, or contains any mark on it other than the ballot marking instructions that are required under this act, the use of that ballot secrecy sleeve or that ballot marking instruction sheet contained in the clear plastic pocket on the front of the ballot secrecy sleeve shall be immediately discontinued and the ballot secrecy sleeve or ballot marking instruction sheet shall be discarded and not be further used at that election. In addition, if a clear plastic pocket on the front of a ballot secrecy sleeve used at an election is defaced, marred, or contains any mark on it, the use of that clear plastic pocket on the front of the ballot secrecy sleeve shall be immediately discontinued and the clear plastic pocket shall be discarded and not be further used at that election.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012.

**Popular name:** Election Code

#### **168.737 Repealed. 2012, Act 128, Imd. Eff. May 14, 2012.**

**Compiler's note:** The repealed section pertained to manner of marking ballot.

**Popular name:** Election Code

#### **168.737a Write-in vote; declaration of intent; filing; death or disqualification of candidate; write-in candidate for precinct delegate; forms; information.**

Sec. 737a. (1) Except as otherwise provided in this section, the board of election inspectors shall not count a write-in vote for a person unless that person has filed a declaration of intent to be a write-in candidate as provided in this section. The write-in candidate shall file the declaration of intent to be a write-in candidate with the filing official for that elective office on or before 4 p.m. on the second Friday immediately before the

election. The secretary of state, immediately after the 4 p.m. filing deadline under this subsection, shall prepare and have delivered a list of all persons who have filed a declaration of intent to be a write-in candidate under this subsection, if any, to the appropriate county clerks. A filing official other than the secretary of state who receives a declaration of intent to be a write-in candidate or list of persons who filed a declaration of intent from another filing official under this subsection shall prepare and have delivered a list of all persons who have filed a declaration of intent to be a write-in candidate to the board of election inspectors in the appropriate precincts before the close of the polls on election day.

(2) If a candidate whose name is printed on the official ballot for the election dies or is otherwise disqualified after 4 p.m. on the second Friday immediately before the election, the requirement of filing a declaration of intent to be a write-in candidate under subsection (1) does not apply to a write-in candidate. If a death or disqualification has occurred as described in this subsection, the board of election inspectors shall count all write-in votes for write-in candidates for the office sought by the deceased or disqualified candidate.

(3) Subsections (1) and (2) do not apply to a write-in candidate for precinct delegate. The board of election inspectors shall not count a write-in vote for a write-in candidate for precinct delegate unless that candidate has filed a declaration of intent to be a write-in candidate as provided in this subsection. A write-in candidate for precinct delegate shall file a declaration of intent to be a write-in candidate with the appropriate city or township clerk for that precinct on or before 4 p.m. on the Friday immediately before the election or with the board of election inspectors in the appropriate precinct before the close of the polls on election day. A city or township clerk who receives a declaration of intent to be a write-in candidate from a write-in candidate for precinct delegate under this subsection shall prepare and have delivered a list of all persons who have filed a declaration of intent to be a write-in candidate to the board of election inspectors in the appropriate precincts before the close of the polls on election day.

(4) The secretary of state shall prescribe forms for the declaration of intent to be a write-in candidate. Clerks shall maintain a supply of declaration of intent to be a write-in candidate forms in the clerk's office and make the forms available in the polling places during the August primary for this purpose. The declaration of intent to be a write-in candidate form shall include all of the following information:

- (a) The name of the person intending to be a write-in candidate.
- (b) The elective office that the person seeks as a write-in candidate.
- (c) The residence address of the person seeking elective office as a write-in candidate.
- (d) Other information the secretary of state considers appropriate.

**History:** Add. 1996, Act 461, Eff. Mar. 31, 1997;—Am. 2006, Act 87, Eff. Mar. 30, 2007;—Am. 2012, Act 276, Eff. Aug. 16, 2012.

**Popular name:** Election Code

### **168.738 Voting; ballots; folding; deposit in ballot box; rejection for exposure.**

Sec. 738. (1) Before leaving the booth or voting compartment, the elector shall fold his or her ballot or each of the ballots so that no part of the face shall be exposed, and with the detachable corner on the outside. Upon leaving the booth, the elector shall at once deliver in public view the ballot or ballots to the inspector designated to receive the ballot or ballots. Except as provided in subsection (2), the inspector shall tear off the corner of the ballot, where perforated, containing the number and shall then in the presence of the elector and the board of inspectors deposit each ballot in the proper ballot box without opening the ballot.

(2) If an elector shows his or her ballot or any part of the ballot to any person other than a person lawfully assisting him or her in the preparation of the ballot or a minor child accompanying that elector in the booth or voting compartment under section 736a, after the ballot has been marked, to disclose any part of the face of the ballot, the ballot shall not be deposited in the ballot box, but shall be marked "rejected for exposure", and shall be disposed of as are other rejected ballots. If an elector exposes his or her ballot, a note of the occurrence shall be entered on the poll list opposite his or her name and the elector shall not be allowed to vote at the election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1996, Act 213, Imd. Eff. May 28, 1996.

**Popular name:** Election Code

### **168.739 Voting; ballots, deposit in separate boxes; label on box.**

Sec. 739. The ballots containing the names of candidates for federal, state, district and county offices shall be deposited in 1 box, the ballots containing the names of candidates for local offices in another box, and the ballots prepared for the submission of proposed constitutional amendments or other propositions shall be deposited in a separate box or boxes. Each box shall be plainly labeled, so that the label may be readily seen by each elector, to indicate the kind of ballots to be deposited therein.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.740 Voting; ballots, spoiling.**

Sec. 740. If any elector inadvertently spoils a ballot, he shall return all of the ballots given him to the board, and said board shall deliver to him another ballot or set of ballots, all bearing the same number. One of the inspectors of election shall, upon the poll book and list, note the change in the number on the ballot or ballots given such elector.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

#### **168.741 Voting; unused and spoiled ballots, preservation.**

Sec. 741. The board of inspectors of election shall preserve the unused ballots, together with the ballots which have been spoiled by the electors and in place of which other ballots have been issued, and return them to the city, township or village clerk, or other officer provided by a city or village charter, with a statement of the number of ballots voted, and the said clerk shall give to the inspectors of election a receipt therefor, which receipt shall be filed with the chairman of the board.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.742 Voting; time for voting ballot.**

Sec. 742. The board of inspectors of election may make such regulations as they deem proper, reasonably limiting the time in which an elector may remain in the room or booth while preparing and voting his ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.743 Voting; ballots, return by elector; failure, penalty.**

Sec. 743. No elector to whom an official ballot has been delivered shall be permitted to pass without the polling place without either voting such ballot or returning it to the inspector from whom he received it; and any elector who shall attempt to pass without the polling place with a ballot or election pencil in his possession, and shall refuse to deliver the same upon request, shall be at once arrested on demand of any member of the board of inspectors.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.744 Prohibited acts; violation as misdemeanor.**

Sec. 744. (1) An election inspector or any other person in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located shall not persuade or endeavor to persuade a person to vote for or against any particular candidate or party ticket or for or against any ballot question that is being voted on at the election. A person shall not place or distribute stickers, other than stickers provided by the election officials pursuant to law, in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located.

(2) A person shall not solicit donations, gifts, contributions, purchase of tickets, or similar demands, or request or obtain signatures on petitions in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located.

(3) On election day, a person shall not post, display, or distribute in a polling place, in any hallway used by voters to enter or exit a polling place, or within 100 feet of an entrance to a building in which a polling place is located any material that directly or indirectly makes reference to an election, a candidate, or a ballot question. Except as otherwise provided in section 744a, this subsection does not apply to official material that is required by law to be posted, displayed, or distributed in a polling place on election day.

(4) A person who violates this section is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1972, Act 60, Imd. Eff. Feb. 22, 1972;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2012, Act 156, Imd. Eff. June 5, 2012.

**Popular name:** Election Code

#### **168.744a Appearance of name of elected or appointed official in polling place or room prohibited; violation; fine.**

Sec. 744a. (1) Notwithstanding any provision of law to the contrary, the name of an elected or appointed official of this state or a political subdivision of this state shall not appear on any material that is temporarily  
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posted, displayed, or distributed in a polling place or polling room on election day.

(2) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$100.00 for a first offense and is guilty of a misdemeanor punishable by a fine of not more than \$250.00 for a second or subsequent offense.

**History:** Add. 2012, Act 156, Imd. Eff. June 5, 2012.

**Popular name:** Election Code

#### **168.745 Ballot of challenged voter; endorsement, rejection.**

Sec. 745. Whenever at any election the ballot of any person who has been challenged as an unqualified voter and who has taken the oath provided by law in such case to be taken shall be received by the inspectors of election, said inspectors shall cause to be plainly endorsed on said ballot, with pencil, before depositing the same in the ballot box, the number corresponding to the number placed after such voter's name on the poll lists without opening the same: Provided, That in case a ballot shall be so folded, defaced, printed or prepared that such number cannot be legibly and permanently written on the back thereof, said inspectors shall refuse to accept such ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

#### **“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_

No \_\_\_\_\_

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

#### **168.746 Ballot of challenged voter; endorsement concealed, identification prohibited.**

Sec. 746. To prevent the identification of said ballot, except as hereinafter provided for in case of a contested election, the inspectors of election shall cause to be securely attached to said ballot, with mucilage or other adhesive substance, a slip or piece of blank paper of the same color and appearance, as nearly as may be, as the paper of the ballot, in such manner as to cover and wholly conceal said endorsement but not to injure or deface the same; and if any inspector or other officer of an election shall afterward expose said endorsement or remove the said slip of paper covering the same, or attempt to identify the ballot of any voter, or suffer the same to be done by any other person, he shall, on conviction thereof, be deemed guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.747 Contested election; challenged voters' ballots, identification in court.**

Sec. 747. In case of a contested election, on the trial thereof before any court of competent jurisdiction, it shall be competent for either party to the cause to have produced in court the ballot boxes, ballots and poll books used at the election out of which the cause has arisen, and to introduce evidence proving or tending to prove that any person named on such poll lists was an unqualified voter at the election aforesaid, and that the ballot of such person was received. On such trial, the correspondence of the number endorsed on a ballot as herein provided with the number of the ballot placed opposite the name of any person on the poll lists shall be received as prima facie proof that such ballot was cast by such person: Provided, That the ballot of no person

shall be inspected or identified under the provisions of this chapter unless such person shall consent thereto in writing, or unless such person has been convicted of falsely swearing in such ballot, or unless the fact that such person was an unqualified elector at the time of casting such ballot has been determined.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.748 Contested election; petition to determine qualifications of electors.**

Sec. 748. After issue joined in any case of contested election, either party to the cause may present a petition to the court before which the said cause is to be tried, setting forth among other things that the petitioner has good reason to believe and does believe that 1 or more voters at the election out of which the cause has arisen, naming him or them, and stating his or their place of residence, were unqualified to vote at such election; that he believes the same can be established by competent testimony; that the ballot or ballots of such voter or voters were received after being challenged, as provided by law; and praying that the court may try and determine the question of the qualification of such voter or voters at said election, which petition shall be verified by the oath of the petitioner or some other person acquainted with the facts, and thereupon the court shall direct an issue to be framed, within a time to be fixed therefor, for the purpose of determining the question of the qualifications of the voter or voters named in said petition to vote at said election; and such issue shall stand for trial as in other cases, and the verdict of the jury or judgment of the court upon such issue so made shall be received, upon the trial of the principal issue in said cause, as conclusive evidence to establish or to disprove the said qualifications of said voter or voters.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.749 Contested elections; challenged voters' ballots, removal of slips concealing endorsements, replacement.**

Sec. 749. On said trial, the judge presiding thereat and no other person shall remove from all challenged voters' ballots the slips of paper concealing the said endorsements until all ballots bearing numbers agreeing with the numbers against the names of such persons on the poll list as have been proved unqualified voters as aforesaid, have been found, and immediately thereafter said judge shall replace slips of paper upon all ballots from which he has taken the same in the same manner as is provided in this chapter for the inspectors of election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.750 Electors; exemption from civil process.**

Sec. 750. During the day on which any election or primary election shall be held, pursuant to the provisions of law, no civil process shall be served on any elector entitled to vote at such election or primary election.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### **ASSISTED VOTERS**

#### **168.751 Assisting elector in marking ballot.**

Sec. 751. When at an election an elector shall state that the elector cannot mark his or her ballot, the elector shall be assisted in the marking of his or her ballot by 2 inspectors of election. If an elector is so disabled on account of blindness, the elector may be assisted in the marking of his or her ballot by a member of his or her immediate family or by a person over 18 years of age designated by the blind person.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972;—Am. 1979, Act 151, Imd. Eff. Nov. 27, 1979.

**Popular name:** Election Code

#### **168.752, 168.753 Repealed. 1979, Act 151, Imd. Eff. Nov. 27, 1979.**

**Compiler's note:** The repealed sections pertained to oath of election and to marking ballots for identification.

**Popular name:** Election Code

#### **168.754 Assistance of electors; duties and restrictions.**

Sec. 754. The inspectors upon whom shall fall the duty of assisting a voter shall render such assistance inside the voting booth by showing him how to mark his ballot in order to vote as he desires, or the inspector

shall himself mark the ballot as directed by the voter, but no ballot shall be marked by the inspector from any written or printed list or slip furnished him by the voter or any other person. The inspector shall not suggest to the voter how he should vote, or in any manner attempt to influence him as to the marking of his ballot, nor allow any other person so to do: Provided, That the duties and restrictions with respect to inspectors as provided for in this section shall apply to and govern any person assisting the voter in the marking of his ballot, in accordance with the authorization in section 751 of this act.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.755 Repealed. 1979, Act 151, Imd. Eff. Nov. 27, 1979.**

**Compiler's note:** The repealed section pertained to entering on list the name, address, and disability of elector.

**Popular name:** Election Code

#### **168.755a Elector unable to write or sign name; execution of election document by making mark or using signature stamp; "election document" defined.**

Sec. 755a. (1) If an elector is unable to write, or sign his or her name on an election document because of a physical disability, the elector may execute the election document where a signature is required either by making his or her mark or by using a signature stamp.

(2) As used in this section, "election document" includes, but is not limited to, any of the following:

- (a) A voter application as described in section 523.
- (b) An absent voter ballot application as described in section 759 or 759a.
- (c) An emergency absent voter ballot application as described in section 759b.
- (d) An absent voter ballot return envelope as described in section 761.

**History:** Add. 2014, Act 79, Imd. Eff. Mar. 28, 2014.

**Popular name:** Election Code

#### **168.756 False statement as perjury.**

Sec. 756. An elector who shall falsely state that he or she is incapable of marking his or her ballot shall, on conviction, be considered guilty of perjury.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1979, Act 151, Imd. Eff. Nov. 27, 1979.

**Popular name:** Election Code

#### **168.757 Unlawful conduct; felony.**

Sec. 757. Any inspector who shall wilfully assist any elector in any manner contrary to the provisions contained in this section, shall, upon conviction, be guilty of a felony.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1979, Act 151, Imd. Eff. Nov. 27, 1979.

**Popular name:** Election Code

### **ABSENT VOTERS**

#### **168.758 "Absent voter" defined; provisions inapplicable to persons residing outside of state; exceptions.**

Sec. 758. (1) For the purposes of this act, "absent voter" means a qualified and registered elector who meets 1 or more of the following requirements:

(a) On account of physical disability, cannot without another's assistance attend the polls on the day of an election.

(b) On account of the tenets of his or her religion, cannot attend the polls on the day of election.

(c) Cannot attend the polls on the day of an election in the precinct in which he or she resides because of being an election precinct inspector in another precinct.

(d) Is 60 years of age or older.

(e) Is absent or expects to be absent from the township or city in which he or she resides during the entire period the polls are open for voting on the day of an election.

(f) Cannot attend the polls on election day because of being confined in jail awaiting arraignment or trial.

(2) Subsection (1) does not apply to a person who has moved outside of this state, regardless of length of his or her residence outside of this state, and who no longer maintains an actual residence in this state. The storage of personal effects or household goods, the ownership of property that is rented or leased to others, or occasional brief visits to a former domicile in this state while residing outside of this state for most of the year does not constitute a residence for voting purposes in this state, except for each of the following:

(a) A person described in section 1 of article II of the state constitution of 1963 and statutes enacted under that section.

(b) A person described in section 759a.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1959, Act 171, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Sess., Act 56, Eff. Mar. 24, 1964;—Am. 1965, Act 354, Eff. Mar. 31, 1966;—Am. 1971, Act 201, Imd. Eff. Dec. 27, 1971;—Am. 1974, Act 189, Imd. Eff. July 2, 1974;—Am. 1975, Act 178, Imd. Eff. July 25, 1975;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

### **168.758a Absent voter ballot for president and vice-president; qualifications.**

Sec. 758a. (1) A citizen of the United States above the age of 18 years may vote by absent voter ballot for president and vice-president of the United States if he has either of the following qualifications:

(a) He has removed from a place within the United States or its possessions to this state, was qualified to vote for president and vice-president at the time of removal in the place from which he removed but is no longer qualified to vote in that place, produces evidence of these facts, and will have resided in this state for less than 6 months and in a city or township of this state for not less than 30 days next preceding an election at which candidates for president and vice-president are voted for.

(b) If he has removed from this state to another place within the United States or its possessions, was a duly qualified and registered elector in a city or township of this state at the time of removal, and produces evidence that he cannot yet qualify to so vote in his present place of residence.

(2) A citizen qualified to vote for president and vice-president under this act, upon making proper application shall be furnished with an absent voter ballot for president and vice-president only as provided in this act. The ballot shall be a regular paper ballot for the election but shall be plainly designated, in the manner prescribed by the secretary of state, "president and vice-president only". A vote shall not be counted on such a ballot other than the vote for president and vice-president of the United States.

(3) A person who qualifies to vote for president and vice-president under paragraph (1a) of this section may make application for a presidential ballot by delivering an application in person to the clerk of the city or township of present residence not later than 2 p.m. on the Saturday immediately prior to the election. The application shall contain a certificate of the voting officer of the place of previous residence which shall be completed at the time of filing and shall also contain a statement that the applicant possesses all the qualifications of an elector in Michigan except those relating to residence and that as to residence he will have resided in the state of Michigan for a period of less than 6 months and in the city or township of present residence at least 30 days immediately prior to the election. The application shall be sworn to before the clerk and upon acceptance by the clerk shall serve as a temporary registration which shall be valid for that election only. A temporary registration as herein set forth shall be delivered to the precinct inspectors with the absent voter ballots and shall be returned to the clerk following the election. The form of the combined application-temporary registration shall be prescribed by the secretary of state.

A voter who qualifies to vote for president and vice-president under paragraph (1b) of this section may make application to the city or township clerk of his last place of residence in Michigan not later than 2 p.m. on the Saturday immediately prior to the election, on a form prescribed by the secretary of state, which form shall include a certificate from the voting officer of the place of present residence stating that the applicant cannot qualify to vote because of failure to meet residence requirements. Any such application shall be deemed to be an authorization to, immediately following the election, cancel the registration of the applicant if it is still on the registration records.

**History:** Add. 1965, Act 75, Eff. Mar. 31, 1966;—Am. 1972, Act 30, Imd. Eff. Feb. 19, 1972.

**Popular name:** Election Code

### **168.758b Voting by persons confined in jail or prison prohibited.**

Sec. 758b. A person who, in a court of this or another state or in a federal court, has been legally convicted and sentenced for a crime for which the penalty imposed is confinement in jail or prison shall not vote, offer to vote, attempt to vote, or be permitted to vote at an election while confined.

**History:** Add. 1975, Act 178, Imd. Eff. July 25, 1975.

**Popular name:** Election Code

### **168.758c Repealed. 2003, Act 302, Eff. Jan. 1, 2005.**

**Compiler's note:** The repealed section pertained to certain electors considered absent voters for purposes of community college district special elections.

**Popular name:** Election Code

**168.759 Application to vote absentee; time; manner; form; availability; signature of applicant; false statement as misdemeanor.**

Sec. 759. (1) At any time during the 75 days before a primary or special primary, but not later than 2 p.m. of the Saturday immediately before the primary or special primary, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the elector is registered. An application received before a primary or special primary may be for either that primary only, or for that primary and the election that follows.

(2) Except as otherwise provided in subsection (1), at anytime during the 75 days before an election, but not later than 2 p.m. of the Saturday before the election, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the voter is registered.

(3) An application for an absent voter ballot under this section may be made in any of the following ways:

(a) By a written request signed by the voter stating the statutory grounds for making the application.

(b) On an absent voter ballot application form provided for that purpose by the clerk of the city, township, or village.

(c) On a federal postcard application.

(4) An applicant for an absent voter ballot shall sign the application. A clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person shall not be in possession of a signed absent voter ballot application except for the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant to return the application; or a clerk, assistant of the clerk, or other authorized election official. A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application.

(5) The clerk of a city, township, or village shall have absent voter ballot application forms available in the clerk's office at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request. The absent voter ballot application shall be in substantially the following form:

"Application for absent voter ballot for:

☐ The primary or special primary election to be held on \_\_\_\_\_ (Date).

☐ The election to be held on \_\_\_\_\_ (Date).

(Check applicable election or elections)

I, \_\_\_\_\_, a United States citizen and a qualified and registered elector of the \_\_\_\_\_ precinct of the township of \_\_\_\_\_ or village of \_\_\_\_\_ or of the \_\_\_\_\_ ward of the city of \_\_\_\_\_, in the county of \_\_\_\_\_ and state of Michigan, apply for an official ballot, or ballots, to be voted by me at the election or elections as requested in this application.

The statutory grounds on which I base my request are:

☐ I expect to be absent from the community in which I am registered for the entire time the polls are open on election day.

☐ I am physically unable to attend the polls without the assistance of another.

☐ I cannot attend the polls because of the tenets of my religion.

☐ I have been appointed an election precinct inspector in a precinct other than the precinct where I reside.

☐ I am 60 years of age or older.

☐ I cannot attend the polls because I am confined to jail awaiting arraignment or trial.

(Check applicable reason)

Send absent voter ballot to me at:

.....  
(Street No. or R.R.)

.....  
(Post Office) (State) (Zip Code)

My registered address .....  
(Street No. or R.R.)

.....  
(Post Office) (State) (Zip Code)

Date.....

I certify that I am a United States citizen and that the statements in this absent voter ballot application are true.

.....  
(Signature)

WARNING

You must be a United States citizen to vote. If you are not a United States citizen, you will not be issued an absent voter ballot.

A person making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the clerk's office must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

Certificate of Authorized Registered  
Elector Returning Absent Voter  
Ballot Application

I certify that my name is ....., my address is ....., and my date of birth is .....; that I am delivering the absent voter ballot application of ..... at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature) "

(6) The following instructions for an applicant for an absent voter ballot shall be included with each application furnished an applicant:

INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you will not receive an absent voter ballot.

Step 2. Deliver the application by 1 of the following methods:

(a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the application personally to the clerk's office, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver the application to the clerk for the applicant.

(d) If an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application.

(7) A person who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section.

(8) A person who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. A person who forges a signature on an absent voter ballot application is guilty of a felony. A person who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1959, Act 171, Eff. Mar. 19, 1960;—Am. 1962, Act 90, Imd. Eff. Apr. 30, 1962;—Am. 1963, Act 237, Eff. Sept. 6, 1963;—Am. 1965, Act 354, Eff. Mar. 31, 1966;—Am. 1974, Act 189, Imd. Eff. July 2, 1974;—Am. 1975, Act 178, Imd. Eff. July 25, 1975;—Am. 1980, Act 344, Imd. Eff. Dec. 23, 1980;—Am. 1982, Act 201, Eff. Jan. 1, 1983;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

**Popular name:** Election Code

**168.759a Absent uniformed services voter or overseas voter; electronic transmission of voter registration or ballot application; requirements; spouse or dependent; electronic transmission of ballot to voter; establishment and implementation of procedures by secretary of state; confidentiality of electronic mailing address; approval of ballot form and registration procedures by state director of elections; use of federal write-in absentee ballot; report; selection of political party ballot for presidential primary election; extension of ballot receipt deadline; definitions.**

Sec. 759a. (1) An absent uniformed services voter or an overseas voter who is not registered, but possessed the qualifications of an elector under section 492, may apply for registration by using the federal postcard application. The department of state, bureau of elections, is responsible for disseminating information on the procedures for registering and voting to an absent uniformed services voter and an overseas voter.

(2) Upon the request of an absent uniformed services voter or an overseas voter, the clerk of a county, city, township, or village shall electronically transmit a blank voter registration application or blank absent voter ballot application to the voter. The clerk of a county, city, township, or village shall accept a completed voter registration application or completed absent voter ballot application electronically transmitted by an absent uniformed services voter or overseas voter. A voter registration application or absent voter ballot application submitted by an absent uniformed services voter or overseas voter shall contain the signature of the voter.

(3) A spouse or dependent of an overseas voter who is a citizen of the United States, is accompanying that overseas voter, and is not a qualified and registered elector anywhere else in the United States, may apply for an absent voter ballot even though the spouse or dependent is not a qualified elector of a city or township of this state.

(4) An absent uniformed services voter or an overseas voter, whether or not registered to vote, may apply for an absent voter ballot. Upon receipt of an application for an absent voter ballot under this section that complies with this act, a county, city, village, or township clerk shall forward to the applicant the absent voter ballots requested, the forms necessary for registration, and instructions for completing the forms. If the ballots are not yet available at the time of receipt of the application, the clerk shall immediately forward to the applicant the registration forms and instructions, and forward the ballots as soon as they are available. If a federal postcard application or an application from the official United States department of defense website is filed, the clerk shall accept the federal postcard application or the application from the official United States department of defense website as the registration application and shall not send any additional registration forms to the applicant. If the ballots and registration forms are received before the close of the polls on election day and if the registration complies with the requirements of this act, the absent voter ballots shall be delivered to the proper election board to be tabulated. If the registration does not comply with the requirements of this act, the clerk shall retain the absent voter ballots until the expiration of the time that the voted ballots must be kept and shall then destroy the ballots without opening the envelope. The clerk may retain registration forms completed under this section in a separate file. The address in this state shown on a registration form is the residence of the registrant.

(5) Not later than 45 days before an election, a county, city, township, or village clerk shall electronically transmit or mail as appropriate an absent voter ballot to each absent uniformed services voter or overseas voter who applied for an absent voter ballot 45 days or more before the election.

(6) Upon the request of an absent uniformed services voter or overseas voter, the clerk of a county, city, township, or village shall electronically transmit an absent voter ballot to the voter. The voter shall print the absent voter ballot and return the voted ballot by mail to the appropriate clerk.

(7) The secretary of state shall prescribe electronic absent voter ballot formats and electronic absent voter ballot transmission methods. Each county, city, township, or village clerk shall employ the prescribed electronic ballot formats to fulfill an absent voter ballot request received from an absent uniformed services voter or overseas voter who wishes to receive his or her absent voter ballot through an electronic transmission. The secretary of state shall establish procedures to implement the requirements in this section and for the processing of a marked absent voter ballot returned by an absent uniformed services voter or overseas voter who obtained his or her absent voter ballot through an electronic transmission.

(8) The secretary of state shall modify the printed statement provided under section 761(4) and the absent voter ballot instructions provided under section 764a as appropriate to accommodate the procedures developed for electronically transmitting an absent voter ballot to an absent uniformed services voter or overseas voter. A statement shall be included in the certificate signed by the absent voter who obtained his or her absent voter ballot through an electronic transmission that the secrecy of the absent voter ballot may be compromised during the duplication process. The absent voter ballot instructions provided to an absent uniformed services voter or overseas voter shall include the proper procedures for returning the absent voter ballot to the appropriate clerk.

(9) The size of a precinct shall not be determined by registration forms completed under this section.

(10) An absent uniformed services voter or an overseas voter who submits an absent voter ballot application is eligible to vote as an absent voter in any local, state, or federal election occurring in the calendar year in which the election is held for that ballot requested if the absent voter ballot application is received by the county, city, village, or township clerk not later than 2 p.m. of the Saturday before the election. A county, city, or township clerk receiving an absent voter ballot application from an absent uniformed services voter or overseas voter shall transmit to a village clerk and the school district election

coordinators, where applicable, the necessary information to enable the village clerk and school district election coordinators to forward an absent voter ballot for each applicable election in that calendar year to the absent voter. A village clerk receiving an absent voter ballot application from an absent uniformed services voter or overseas voter shall transmit to the township clerk and the school district election coordinators, where applicable, the necessary information to enable the city or township clerk and school district election coordinators to forward an absent voter ballot for each applicable election in that calendar year to the absent voter. If the local elections official rejects a voter registration application or absent voter ballot application submitted by an absent uniformed services voter or overseas voter, the election official shall notify the voter of the rejection.

(11) An electronic mail address provided by an absent uniformed services voter or overseas voter for the purposes of this section is confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) Under the uniformed and overseas citizens absentee voting act, the state director of elections shall approve a ballot form and registration procedures for absent uniformed services voters and overseas voters.

(13) An absent uniformed services voter or an overseas voter may use the federal write-in absentee ballot, in accordance with the provisions of the uniformed and overseas citizens absentee voting act, at a regular election or special election to vote for a local, state, or federal office or on a ballot question. An absent uniformed services voter or an overseas voter who uses the federal write-in absentee ballot shall return his or her voted federal write-in absentee ballot by mail to the appropriate clerk. The state bureau of elections shall do both of the following:

(a) Make the ballot format for each election available to absent uniformed services voters and overseas voters by electronic mail or on an internet website maintained by the department of state.

(b) Make the ballot information, including the offices, names of candidates, and ballot proposals, for each election available to absent uniformed services voters and overseas voters on an internet website maintained by the department of state.

(14) The clerk of a city, village, or township shall submit to the county clerk of the county in which that city, village, or township is located a written statement no later than 45 days before each election indicating whether absent voter ballots were issued to absent uniformed services voters or overseas voters in compliance with this section and the uniformed and overseas citizens absentee voting act. The city, village, or township clerk shall provide to the county clerk a written explanation describing remedial actions taken by the city, village, or township clerk if the city, village, or township clerk fails to comply with this section and the uniformed and overseas citizens absentee voting act. Not later than 42 days before each election, each county clerk shall submit to the state bureau of elections a written report compiled from the written statements submitted by the city, village, and township clerks. The written report shall identify the cities, villages, and townships that complied with the 45-day deadline under this subsection, the cities, villages, and townships that did not comply with the 45-day deadline under this subsection, but provided a written explanation, and those cities, villages, and townships that did not comply with the 45-day deadline under this subsection and that did not provide a written explanation. The state bureau of elections may require the clerk of a city, village, or township that did not comply with the 45-day deadline under this subsection, but provided a written explanation, to provide additional information. The state bureau of elections shall require the clerk of a city, village, or township that did not comply with the 45-day deadline and that did not provide a written explanation to file a written explanation, describing the remedial actions taken by the city, village, or township clerk, within 1 business day after the state bureau of elections notifies the clerk of that city, village, or township.

(15) For a presidential primary election, the secretary of state shall prescribe procedures for contacting an elector who is an absent uniformed services voter or an overseas voter, as described in this section, and who is eligible to receive an absent voter ballot or who applies for an absent voter ballot for the presidential primary election, offering the elector the opportunity to select a political party ballot for the presidential primary election.

(16) The secretary of state shall order a city, village, or township clerk to extend the ballot receipt deadline for any absentee voter ballots under this section that were not transmitted to an absent uniformed services voter or overseas voter in compliance with subsection (5). The extension shall equal the total number of days beyond the deadline as provided in subsection (5) that the city, village, or township clerk transmitted the requested absentee voter ballots. These absentee voter ballots received during the extension time shall be counted and tabulated for the final results of the election provided that the absentee voter ballots are executed and sent by the close of the polls on election day. The election may be formally certified before the end of the extension time if the number of outstanding absentee voter ballots under this subsection will not alter the outcome of the election.

(17) As used in this section:

(a) "Absent uniformed services voter" means any of the following:

(i) A member of a uniformed service on active duty who, by reason of being on active duty, is absent from the place of residence where the member is otherwise qualified to vote.

(ii) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote.

(iii) A spouse or dependent of a member referred to in subparagraph (i) or (ii) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(b) "Member of the merchant marine" means an individual, other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways, who is either of the following:

(i) Employed as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States.

(ii) Enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of a vessel documented under the laws of the United States, a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States.

(c) "Overseas voter" means any of the following:

(i) An absent uniformed services voter who, by reason of active duty or service, is absent from the United States on the date of an election.

(ii) A person who resides outside of the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States.

(iii) A person who resides outside of the United States and who, but for such residence outside of the United States, would be qualified to vote in the last place in which he or she was domiciled before leaving the United States.

(d) "Uniformed services" means the army, navy, air force, marine corps, coast guard, the commissioned corps of the public health service, the commissioned corps of the national oceanic and atmospheric administration, a reserve component of a uniformed service, or the Michigan national guard as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

**History:** Add. 1956, Act 21, Imd. Eff. Mar. 22, 1956;—Am. 1971, Act 68, Eff. Oct. 1, 1971;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 605, Imd. Eff. Jan. 3, 2007;—Am. 2010, Act 50, Eff. June 1, 2010;—Am. 2011, Act 163, Imd. Eff. Oct. 4, 2011;—Am. 2012, Act 279, Eff. Aug. 15, 2012;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

**Compiler's note:** See Green Party of Michigan, et al v Terri Lynn Land, case no. 08-10149, March 26, 2008.

**Popular name:** Election Code

### **168.759b Emergency absent voters' ballot; application.**

Sec. 759b. Any registered elector may apply for absent voter ballots at any time prior to 4 p.m. on election day if he shall have become physically disabled or shall be absent from the city or township because of sickness or death in the family which has occurred at a time which has made it impossible to apply for absent voter ballots by the statutory deadline. The application shall be called an emergency absent voter application.

Emergency absent voter applications may be made by letter or on a form provided by the clerk. The application shall set forth that the voter is qualified to vote in the election, stating the statutory reason for applying for an emergency absent voter ballot and that the reason for applying after the statutory deadline occurred at such a time to make it impossible to file an application for absent voter ballots by the statutory deadline.

Any person intentionally making a false statement in such application is guilty of a felony. Any person aiding or abetting any person to make a false statement on such application is guilty of a felony.

Upon receipt by the clerk of a valid application for an emergency absent voter ballot, the clerk may deliver the ballots to the applicant in person, through a deputy or an election assistant, or he may deliver them at his office to a person named by the applicant in the application. The voter may return the ballots to the clerk in the sealed envelope provided therefor in any manner he sees fit. To be valid, ballots must be returned to the clerk in time to be delivered to the polls prior to 8 p.m. on election day.

**History:** Add. 1965, Act 205, Imd. Eff. July 16, 1965.

**Popular name:** Election Code

### **168.759c Absent voter ballot; political party ballot selection.**

Rendered Friday, February 3, 2017

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Sec. 759c. For a presidential primary election, the secretary of state shall revise the absent voter ballot application form described in section 759 or provide a separate form to require that a presidential primary elector indicate a political party ballot selection when requesting an absent voter ballot.

**History:** Add. 2011, Act 163, Imd. Eff. Oct. 4, 2011.

**Popular name:** Election Code

**168.760 Absent voters; records, public inspection.**

Sec. 760. Upon receipt of such properly executed application, as above provided, the city, township or village clerk shall file the same in his office and shall enter the name of the applicant and the address to which the ballot or ballots are to be sent upon a list or record to be kept for such purpose, together with the date of receiving the application, the date of mailing or delivering the ballot or ballots to such voter, the date of receiving the ballot from such voter, and such other information as may seem necessary or advisable. Applications and lists shall be open to public inspection at all reasonable hours.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.761 Absent voter ballots; mailing or delivering to applicant; order of issuance; numbering; return envelope; form; statement; false statement as misdemeanor or felony; presentation of picture identification card; affidavit; challenged ballot.**

Sec. 761. (1) If the clerk of a city, township, or village receives an application for an absent voter ballot from a person registered to vote in that city, township, or village and if the signature on the application agrees with the signature for the person contained in the qualified voter file or on the registration card as required in subsection (2), the clerk immediately upon receipt of the application or, if the application is received before the printing of the absent voter ballots, as soon as the ballots are received by the clerk, shall forward by mail, postage prepaid, or shall deliver personally 1 of the ballots or set of ballots if there is more than 1 kind of ballot to be voted to the applicant. Subject to the identification requirement in subsection (6), absent voter ballots may be delivered to an applicant in person at the office of the clerk.

(2) The qualified voter file shall be used to determine the genuineness of a signature on an application for an absent voter ballot. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on the application for an absent voter ballot to the signature contained on the master card.

(3) Notwithstanding section 759, providing that no absent voter applications shall be received by the clerk after 2 p.m. on the Saturday before the election, and subject to the identification requirement in subsection (6), a person qualified to vote as an absent voter may apply in person at the clerk's office before 4 p.m. on a day before the election except Sunday or a legal holiday to vote as an absent voter. The applicant shall receive his or her absent voter ballot and vote the ballot in the clerk's office. All other absent voter ballots, except ballots delivered pursuant to an emergency absent voter ballot application under section 759b, shall be mailed or delivered to the registration address of the applicant unless the application requests delivery to an address outside the city, village, or township or to a hospital or similar institution, in which case the absent voter ballots shall be mailed or delivered to the address given in the application. However, a clerk may mail or deliver an absent voter ballot, upon request of the absent voter, to a post office box if the post office box is where the absent voter normally receives personal mail and the absent voter does not receive mail at his or her registration address.

(4) Absent voter ballots shall be issued in the same order in which applications are received by the clerk of a city, township, or village, as nearly as may be, and each ballot issued shall bear the lowest number of each kind available for this purpose. However, this provision does not prohibit a clerk from immediately issuing an absent voter ballot to an absent voter who applies in person in the clerk's office for absent voter ballots. The clerk shall enclose with the ballot or ballots a return envelope properly addressed to the clerk and bearing upon the back of the envelope a printed statement in substantially the following form:

TO BE COMPLETED  
BY THE CLERK

Name of Voter	Street Address or R.R.
City, Township or Village	County
Ward _____ Precinct _____	Date of Election _____
=====	

TO BE COMPLETED BY THE ABSENT VOTER

I assert that I am a United States citizen and a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person.

I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.

DATE: \_\_\_\_\_ SIGN HERE: X \_\_\_\_\_

Signature of Absent Voter

The above form must be signed or your vote will not be counted.

AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A MISDEMEANOR.

=====

TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING  
BY ANOTHER PERSON

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in marking his or her absent voter ballot pursuant to his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.

Signature of Person  
Assisting Voter

Street Address  
or R.R.

City, Twp., or  
Village

Printed Name of Person Assisting Voter

A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A FELONY.

=====

WARNING

PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

(5) An absent voter who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a misdemeanor. A person who assists an absent voter and who knowingly makes a false statement on the absent voter ballot return envelope is guilty of a felony.

(6) If an elector obtains his or her absent voter ballot in person from the clerk of the city, township, or village in which he or she is registered, the clerk of the city, township, or village shall not provide an absent voter ballot to that elector until the elector identifies himself or herself to the clerk by presenting an official state identification card issued to that elector under 1972 PA 222, MCL 28.291 to 28.300, an operator's or chauffeur's license issued to that elector under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or other generally recognized picture identification card. If an elector does not have an official state identification card, operator's or chauffeur's license, or other generally recognized picture identification card, the elector may sign an affidavit to that effect before the clerk of the city, township, or village and be allowed to obtain his or her absent voter ballot in person from the clerk. The clerk of the city, village, or township shall indicate to each elector who obtains his or her absent voter ballot in person from the clerk that the elector may sign an affidavit indicating that the elector does not have an official state identification card, operator's or chauffeur's license, or other generally recognized picture identification card in order to obtain his or her absent voter ballot in person from the clerk. However, if an elector obtains his or her absent voter ballot in person from the clerk and votes by absent voter ballot without providing the identification required under this subsection, the absent voter ballot of that elector shall be prepared as a challenged ballot as provided in section 727 and shall be counted as any other ballot is counted unless determined otherwise by a court of law under section 747 or 748 or any other applicable law.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1965, Act 152, Imd. Eff. July 12, 1965;—Am. 1966, Act 264, Imd. Eff. July 12, 1966;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2012, Act 523, Eff. Mar. 28, 2013.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### **168.761a Absent voters' ballots; precinct delegate ballots.**

Sec. 761a. In cities or townships which have established absent voter ballot counting boards, when precinct delegates are to be elected, the clerk, when forwarding absent voter ballots to voters may in addition to the regular return envelope, forward to the absent voter a separate envelope for the return of the delegate ballot. Delegate ballots shall be returned to the clerk by the voter in the special envelope in such case and the clerk shall forward the delegate ballots so returned to the proper precinct on election day. The precinct inspectors shall tally such ballots separately and add such totals to the precinct totals as shown by the voting machines in completing their statements. The secretary of state shall issue rules to implement this section.

**History:** Add. 1965, Act 331, Imd. Eff. July 23, 1965.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

### **168.762 Absent voters' ballots; procedure when no application.**

Sec. 762. If from any precinct the said township, village or city clerk shall not receive any application for absent voter ballots, he shall deliver the packages of absent voter ballots intact to the chairman or some member of the board of inspectors of election of said precinct before the opening of the polls on election day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956.

**Popular name:** Election Code

### **168.763 Repealed. 1956, Act 37, Imd. Eff. Mar. 28, 1956.**

**Compiler's note:** The repealed section imposed duty upon clerk to initial 3 additional absentee ballots before delivery to board of inspectors.

**Popular name:** Election Code

### **168.764 Absent voter ballot; instructions.**

Sec. 764. In addition to the instructions provided to an absent voter under section 764a, the following ballot marking instructions for an absent voter concerning the method of voting shall be included with each absent voter ballot furnished an absent voter:

- (a) For a primary election, the ballot marking instructions as provided in section 736b.
- (b) For a general election, the ballot marking instructions as provided in section 736c.
- (c) For a nonpartisan election, the ballot marking instructions as provided in section 736d.
- (d) For a special election, the ballot marking instructions as provided in section 736e.

**History:** Add. 2012, Act 128, Imd. Eff. May 14, 2012.

**Compiler's note:** Former 168.764, which pertained to instructions for absent voter ballots, was repealed by Act 261 of 1995, Eff. Mar. 28, 1996.

**Popular name:** Election Code

### **168.764a Instructions for absent voters.**

Sec. 764a. The following instructions for an absent voter shall be included with each ballot or set of ballots furnished an absent voter:

#### INSTRUCTIONS FOR ABSENT VOTERS

Step 1. Enclosed you will find voting instructions as to the method of voting. Read these carefully and then vote the ballot.

Step 2. After voting a ballot, place the ballot in the secrecy sleeve, if any. If a secrecy sleeve is not provided, refold the ballot to conceal your votes.

Step 3. Place the ballot or ballots in the return envelope and securely seal the envelope.

Step 4. Sign and date the return envelope in the place designated. Your signature must appear on the return envelope or the ballot will not be counted. If you are disabled or otherwise unable to mark the ballot and

required assistance in voting your absent voter ballot, have the person who assisted you complete the section on the return envelope entitled "TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING BY ANOTHER PERSON".

Step 5. Deliver the return envelope by 1 of the following methods:

(a) Place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the envelope personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver a ballot to the clerk for the voter.

(d) You may request by telephone that the clerk who issued the ballot provide assistance in returning the ballot. The clerk is required to provide assistance if you are unable to return your absent voter ballot as specified in (a), (b), or (c) above, if it is before 5 p.m. on the Friday immediately preceding the election, and if you are asking the clerk to pickup the absent voter ballot within the jurisdictional limits of the city, township, or village in which you are registered. Your absent voter ballot will then be picked up by the clerk or an election assistant sent by the clerk. All persons authorized to pick up absent voter ballots are required to carry credentials issued by the clerk. If using this absent voter ballot return method, do not give your ballot to anyone until you have checked their credentials.

Step 6. The ballot must reach the clerk or an authorized assistant of the clerk before the close of the polls on election day. An absent voter ballot received by the clerk or assistant of the clerk after the close of the polls on election day will not be counted.

#### WARNING

All of the following actions are violations of the Michigan election law and are illegal in this state:

(1) To vote an absent voter ballot at a meeting or gathering at which other people are voting absent voter ballots.

(2) For a person who is assisting an absent voter in marking the ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(3) For a person who is present and knows that a person is voting an absent voter ballot to suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(4) For a person other than those listed in these instructions to return, offer to return, agree to return, or solicit to return an absent voter ballot to the clerk.

(5) For a person other than the absent voter; a person listed in these instructions; or a person whose job it is to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment to be in possession of a voted or unvoted absent voter ballot.

**History:** Add. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996;—Am. 2012, Act 128, Imd. Eff. May 14, 2012.

**Popular name:** Election Code

### **168.764b Delivery and acceptance of absent voter ballots; appointment, oath, credentials, and duties of assistants; collection of absent voter ballots; prohibition; noncompliance.**

Sec. 764b. (1) An absent voter ballot shall be delivered to the clerk only as authorized in the instructions for an absent voter provided in section 764a.

(2) The clerk of a city, township, or village may accept delivery of absent voter ballots at any location in the city, township, or village.

(3) The clerk of a city, township, or village may appoint the number of assistants necessary to accept delivery of absent voter ballots at any location in the city, township, or village. An appointment as assistant to accept delivery of absent voter ballots shall be for 1 election only. An assistant appointed to receive ballots at a location other than the office of the clerk shall be furnished credentials of authority by the clerk. If an absent voter's ballot is received by an assistant at any location other than the clerk's office the assistant, upon request, shall exhibit the credentials to the absent voter before the assistant accepts an absent voter ballot. An assistant, before entering upon the discharge of duties, shall take and subscribe to the oath of office as provided in section 1 of article XI of the state constitution of 1963. An assistant shall perform only the duties assigned by the clerk. A person shall not be appointed as an assistant to accept delivery of absent voter ballots who is a candidate or a member of the immediate family of a candidate whose name appears on the ballot at that election.

(4) A clerk who receives a request from an absent voter under section 764a for assistance in returning his

or her absent voter ballot shall make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant, if all of the following conditions are satisfied:

(a) The clerk's office issued the absent voter ballot to that absent voter.

(b) Upon the clerk's request, the absent voter states that he or she is unable to return the absent voter ballot by the other means specified in instructions (a), (b), or (c) of Step 5 under section 764a.

(c) The absent voter telephones the appropriate clerk for assistance on or before 5 p.m. on the Friday immediately preceding the election.

(d) The absent voter is requesting the clerk to pick up the absent voter ballot within the jurisdictional limits of the city, township, or village in which the absent voter is registered.

(5) Notwithstanding subsection (4), a clerk who receives a request from an absent voter under section 764a for assistance in returning his or her absent voter ballot may make arrangements to collect the ballot from the voter either personally or by sending an authorized assistant, if all of the following conditions are satisfied:

(a) The clerk's office issued the absent voter ballot to that absent voter.

(b) Upon the clerk's request, the absent voter states that he or she is unable to return the absent voter ballot by the other means specified in instructions (a), (b), or (c) of Step 5 under section 764a.

(6) The clerk shall maintain a list open to the public that contains the names and addresses of all authorized assistants appointed under this section who are available to collect absent voter ballots on or before election day in that city or township.

(7) An absent voter ballot received by the clerk before the close of the polls on election day shall not be invalidated solely because the delivery to the clerk was not in compliance with section 764a or this section, however the ballot shall be considered challenged and shall be marked and processed as provided in section 745.

**History:** Add. 1982, Act 201, Imd. Eff. July 1, 1982;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

#### **168.764c Ballot tracker program; tracking absent voter ballots online.**

Sec. 764c. If a city, township, or village has access to the ballot tracker program provided by the state, the clerk of that city, township, or village shall utilize the ballot tracker program and allow voters to track their absent voter ballots online.

**History:** Add. 2012, Act 270, Eff. Aug. 15, 2012.

**Popular name:** Election Code

#### **168.765 Absent voter ballots; safekeeping by clerk; public inspection of applications and lists; delivery to board of election inspectors; voter ballot received after polls closed; information to be posted by clerk.**

Sec. 765. (1) A clerk who receives an absent voter ballot return envelope containing the marked ballots of an absent voter shall not open that envelope before delivering the envelope to the board of election inspectors as provided in this section. The city, village, or township clerk shall safely keep in his or her office until election day any absent voter ballot return envelopes received by the clerk before election day containing the marked ballots of an absent voter.

(2) Before the opening of the polls on election day or as soon after the opening of the polls as possible, the clerk shall deliver the absent voter ballot return envelopes to the chairperson or other member of the board of election inspectors in the absent voter's precinct, together with the signed absent voter ballot applications received by the clerk from any voters of that precinct and the clerk's list or record kept relative to those absent voters. However, if higher numbered ballots are used pursuant to section 717, the clerk shall retain the applications and lists in his or her office and shall keep the applications and lists open to public inspection at all reasonable hours.

(3) The city, village, or township clerk, or authorized designee of the clerk shall call for and receive absent voter ballots from the post office at which the city, village, or township clerk regularly receives mail addressed to the city, village, or township clerk on election day in sufficient time to deliver any envelopes containing absent voter ballots to the board of election inspectors before the close of the polls.

(4) If a marked absent voter ballot is received by the clerk after the close of the polls, the clerk shall plainly mark the envelope with the time and date of receipt and shall file the envelope in his or her office. Except as otherwise provided in section 759b, the clerk shall not deliver an absent voter ballot to a voter after the opening of the polls on election day.

(5) On or before 8 a.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballots the clerk distributed to absent voters and the number of absent voter ballot

return envelopes containing the marked ballots of absent voters received by the clerk before election day and delivered to the board of election inspectors or the absent voter counting boards pursuant to this act. On or before 9 p.m. on election day, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk on election day and delivered to the board of election inspectors pursuant to subsection (3), along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the clerk both before and on election day and delivered to the board of election inspectors or the absent voter counting boards pursuant to this act. As soon as possible after all precincts in the city, township, or village are processed, the clerk shall post in the clerk's office or otherwise make public the number of absent voter ballot return envelopes containing the marked ballots of absent voters received by the election inspectors at the precincts on election day, along with the total number of absent voter ballot return envelopes containing the marked ballots of absent voters received in the city, township, or village for that election. This subsection applies only to elections in which a federal or state office appears on the ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 207, Imd. Eff. May 21, 1996.

**Popular name:** Election Code

#### **168.766 Absent voters' ballots; verification by election inspectors.**

Sec. 766. (1) Upon receipt from the city, township or village clerk of any envelope containing the marked ballot or ballots of an absent voter, the board of inspectors of election shall verify the legality of such vote by an examination of a digitized signature for the absent voter included in the qualified voter file under section 509q or the registration record as provided in subsection (2) to see that the person has not voted in person, that he is a registered voter, and that the signature on the statement agrees with the signature on the registration record; and by an examination of the statement of such voter to see that it is properly executed.

(2) The qualified voter file shall be used to determine the genuineness of a signature on an envelope containing an absent voter ballot. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, or is not accessible to the clerk, the city or township clerk shall compare the signature appearing on an envelope containing an absent voter ballot to the signature contained on the master card.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

#### **168.767 Absent voters' ballots; illegal vote; rejection of ballot; marking; preservation.**

Sec. 767. If upon an examination of the envelope containing an absent voter's ballot or ballots, it is determined that the signature on the envelope does not agree sufficiently with the signature on the registration card or the digitized signature contained in the qualified voter file as provided under section 766 so as to identify the voter or if the board shall have knowledge that the person voting the ballot or ballots has died, or if it is determined by a majority of the board that such vote is illegal for any other reason, then such vote shall be rejected, and thereupon some member of the board shall, without opening the envelope, mark across the face of such envelope, "rejected as illegal", and the reason therefor. The statement shall be initiated by the chairman of the board of election inspectors. Said envelope and the ballot or ballots contained therein shall be returned to the city, township or village clerk and retained and preserved in the manner now provided by law for the retention and preservation of official ballots voted at such election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 2005, Act 71, Imd. Eff. July 14, 2005.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

#### **168.768 Absent voters' ballots; legal vote; deposit of ballot in box, record.**

Sec. 768. If upon such examination of the envelope containing an absent voter's ballot or ballots, the board of inspectors of election shall determine that such vote is legal, the member of the board receiving ballots at such election shall open the absent voter's envelope, take out the ballot or ballots therein contained and shall,

without unfolding such ballot or ballots, detach from each such ballot the perforated numbered corner, and shall deposit each such ballot in the proper ballot box. One of the inspectors of election shall note upon the poll book and list the fact that such voter voted at such election by means of an absent voter's ballot.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

### **168.769 Absent voter ballots; voting in person; return of ballot; voting in person and absent voter ballot as felony; report.**

Sec. 769. (1) An absent voter may vote in person within his or her precinct at an election, notwithstanding that he or she applies for an absent voter ballot and the ballot is mailed or otherwise delivered to the absent voter by the clerk. This subsection only applies if the absent voter does not vote the absent voter ballot mailed or otherwise delivered by the clerk.

(2) Before voting in person, except as otherwise provided in this section, the absent voter shall return the absent voter ballot to the board of election inspectors in his or her precinct. If an absent voter ballot is returned under this subsection, the board of election inspectors shall mark it "CANCELED" and place it in the regular box with other canceled ballots.

(3) An absent voter who did not receive an absent voter ballot that he or she applied for or lost or destroyed an absent voter ballot he or she received, and who desires to vote in person in his or her precinct on election day, shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, a voter being allowed to vote under this subsection is subject to challenge as provided in section 727.

(4) A person who votes at an election both in person and by means of an absent voter ballot or a person who attempts to vote both in person and by means of an absent voter ballot is guilty of a felony.

(5) An election official who becomes aware of a person who votes or attempts to vote both in person and by means of an absent voter ballot shall report that information to the prosecuting attorney for that county and to the secretary of state.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

#### **"A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

—Eliminate "straight party" vote option on partisan general election ballots.

—Require Secretary of State to obtain training reports from local election officials.

—Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.

—Require expedited canvass if presidential vote differential is under 25,000.

—Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_

No \_\_\_\_\_

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### **168.769a Use of voting machines by absentee voters; ballot format; election inspectors; locking and sealing voting machine; record; poll list; recording of votes; notice; challenger.**

Sec. 769a. (1) In a city or township using voting machines the city or township election commission may provide that an absent voter who appears at the clerk's office at any time during the 13 days preceding a primary or election but not later than 4 p.m. of the day preceding the election may vote on a voting machine.

(2) In a city or township which permits the use of voting machines by absentee voters as provided in subsection (1) at least 1 voting machine shall be arranged for absent voters. The machine shall be in the city or township hall.

(3) Only 1 ballot format shall appear on a voting machine.

(4) The city or township election commission shall appoint 2 election inspectors who shall be in the office of the clerk during the time that the machine is present and the office is open to allow absentee voters to use it. The inspectors shall be of different political parties.

(5) When not in use by a voter the voting machine shall be locked by a key to prevent voting on that machine. The key shall be in the custody of the clerk or the clerk's designated representative.

(6) When the office of the clerk is closed the voting machine shall be sealed by a numbered seal in a manner that will prevent voting on the machine. The number of the seal shall be recorded and the record signed by the clerk or the clerk's designated representative. When the office is reopened the clerk or the clerk's designated representative shall examine the seal and record that the number is the same as the number shown on the record of sealing the machine. The record shall be maintained in the clerk's office with other election records.

(7) The machine shall at all times be sealed with a metal numbered seal in a manner that will prevent the votes cast on the machine to be read. This seal will remain on the machine until the recording of the votes. A record of the seal number shall be maintained by the clerk.

(8) A poll list shall be maintained by the inspectors of election in the same manner that a poll list is maintained in a precinct.

(9) On election day the votes cast on the machine shall be recorded by a counting board. After the recording of the votes the machine shall be resealed so that the counters cannot be read without breaking the seal and the seal number shall be recorded.

(10) The city or township clerk shall, at least 20 days before the election, notify the county committee of each political party having candidate son the ballot of the hours that the office will be open and the machine available for voting. A political party or a committee authorized under the provisions of section 731 may appoint 1 challenger to be present during these hours.

**History:** Add. 1980, Act 140, Imd. Eff. May 29, 1980.

**Popular name:** Election Code

## VOTING MACHINES

### **168.770 Voting machines authorized; contracts between governing bodies as to use.**

Sec. 770. (1) Unless the secretary of state implements the uniform voting system in a precinct, at all elections held in this state, ballots or votes may be cast, registered, recorded, and counted by means of voting machines, as provided in this chapter.

(2) The governing body of a governmental unit in this state may contract with the governing body of another governmental unit in this state with regard to the use of voting machines owned by either of the contracting units.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 386, Eff. Mar. 31, 1966;—Am. 1972, Act 214, Imd. Eff. July 7, 1972;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

### **168.770a Voting device; authorization of use by secretary of state; petition; rules as to election procedures.**

Sec. 770a. Until the secretary of state implements the uniform voting system, the secretary of state may permit the use of any type of voting device for election purposes in any election upon petition for use of the device by the legislative body of the political subdivision desiring to use any new device. Permission granted by the secretary of state shall be valid for 1 election only. Local legislative body includes school boards. Upon authorizing the use of the device, the secretary of state shall prepare detailed rules as to election procedures when the device is used. The rules may include prescribing the counting of votes and the making of returns by persons other than precinct election inspectors. No rule shall be made which provides for reducing the secrecy of the ballot. In partisan general elections, candidates shall be listed under a party heading. Rules promulgated shall be consistent with the election law.

**History:** Add. 1965, Act 91, Imd. Eff. June 28, 1965;—Am. 1966, Act 86, Imd. Eff. June 14, 1966;—Am. 1967, Act 50, Eff. Nov. 2, 1967;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

### **168.771 Voting machines; purchase.**

Sec. 771. Until notified by the secretary of state under section 37, a county board of commissioners, the legislative body of an incorporated city or village, or the township board of a township in the state of

Michigan may, by a majority vote, authorize, purchase, and order the use of a thoroughly tested or reliable voting machine in 1 or more voting precincts within the county, city, village, or township until otherwise ordered by the officers adopting the same.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

#### **168.771a Selection of electronic voting system; criteria.**

Sec. 771a. Beginning on the effective date of the amendatory act that added this section, the secretary of state shall allow a county clerk, in consultation with the clerk of each city, township, and village located in that county, to determine which electronic voting system will be used in the county as long as the electronic voting system selected meets both of the following criteria:

- (a) The electronic voting system is the same type of electronic voting system as the uniform voting system.
- (b) The electronic voting system is approved and certified as provided in section 795a.

**History:** Add. 2014, Act 464, Imd. Eff. Jan. 12, 2015.

**Popular name:** Election Code

#### **168.772 Voting machines; construction and operation.**

Sec. 772. A voting machine to be purchased as provided in section 771 of this act must be so constructed as to provide facilities for voting for the candidates of at least 7 different parties or organizations, and must permit all voters to vote for any person for any office, whether or not nominated as a candidate by any party or organization, and must permit voting in secrecy. It shall also be so constructed that votes may be cast thereon for constitutional amendments or any other public measure; it must also be so constructed as to provide for at least 30 candidates for each party organization at any and all elections, and said machine must be constructed of good and durable material in a workmanlike manner, and also so constructed that it can be easily and conveniently operated by inspectors of election and the voters; it must also be so constructed as to prevent voting for more than 1 person for the same office, except where the voter is entitled to vote for more than 1 person for that office, and it must afford him an opportunity to vote for any and all persons for that office as he is by law entitled to vote for and no more, at the same time preventing his voting for the same person twice: Provided, That at any time when the polls are open, any voter finding in his use of the machine that same does not operate in exact accordance with the provisions of this section shall be entitled to notify the chairman or any member of the board thereof, whereupon the member so notified and the other members of the board present shall inspect said machine and determine whether or not the alleged irregularity of operation is a fact. If it is determined that the machine is not operating in accordance with this section, no further voting thereon shall be permitted until the machine is adjusted and the number of votes recorded thereon shall not be changed during the process of adjustment. If the machine cannot be properly adjusted, it shall be locked and no further voting permitted thereon. Any person charged with the duty of setting, adjusting or operating voting machines shall perform that duty in such a manner that the machines will enable voters to use same in accordance with the provisions of this section. Any person wilfully failing to carry out the provisions of this section shall, upon conviction thereof, be fined not more than \$500.00, or imprisoned for not more than 90 days, or both such fine and imprisonment, in the discretion of the court.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955.

**Popular name:** Election Code

#### **168.773 Voting machines or uniform voting system; maintenance; custody.**

Sec. 773. (1) A county board of commissioners, the legislative body of a city or village, or the township board of a township adopting a voting machine or implementing the uniform voting system shall, as soon as practicable, provide for each election district a voting machine or uniform voting system in complete working order. The county, city, township, or village clerk shall keep the voting machine or voting system in repair and shall have the custody of the machine or system. The clerk has custody of the furniture and equipment of the polling place when not in use at an election.

(2) If it is impracticable to supply each and every election district with a voting machine at any election following the adoption, as many may be supplied as it is practicable to procure, and the voting machines may be used in the election district or districts within the county, city, village, or township as the officers adopting them may determine. More than 1 voting machine may be provided and used in an election precinct.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

#### **168.774 Voting machines; contracts for purchase, terms.**

Rendered Friday, February 3, 2017

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Michigan Compiled Laws Complete Through PA 416 of 2016

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Sec. 774. The board of supervisors of any county, the legislative body of any city or village, or the township board of any township, on the adoption and purchase of voting machines, may provide for the payment thereof in such manner as they deem for the best interest of the county, city, village or township, and may enter into a contract for the purchase of said machines with provision for payment thereof in annual installments not exceeding in all 10 years, and of such amounts and payable at such times as said local authorities shall determine, and said officials shall further have the right to acquire title to said machines at the time of installation or at any time thereafter by payment of the full amount of the purchase price or the balance thereof either in cash or by the issuance and delivery in payment therefor of certificates of indebtedness drawn for the amounts of said annual installments; said certificates shall be valid negotiable obligations of said county, city, village or township and may be issued with or without interest, but in no case shall the interest exceed 6%. It is further provided that in case any city, village or township of a county in which the use of voting machines shall have been determined upon by the board of supervisors shall have previously purchased voting machines, such city, township or village shall have returned to it from the general fund of said county such pro rata amount of the whole cost for the county as the number of voting precincts so previously provided by any such city, township or village bears to the whole number in the county, but not exceeding the amount previously paid by any such city, township or village.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.775 Voting machines; ballot labels, printing, order of names; amendments or questions; vignettes; printed ballots.**

Sec. 775. All ballot labels shall be printed in black ink on clear white material or amendments, propositions and questions may be printed on red tinted material and the names of candidates for nonpartisan offices on blue tinted material of such size as will fit the ballot frame and in plain type as the space will reasonably permit. (The name of each candidate for nomination to any office by a political party shall be placed upon the party row of such party to which shall be prefixed the name and vignette of such party.) The names of candidates for office to be voted for at such election shall be placed upon such machines in the same order that the names of candidates for office are now required to be placed upon printed ballots by the general election law. Where candidates for local offices in any city, village or township are to be voted for at the same election with state or county candidates, the names of the candidates for such offices shall be placed last upon such voting machines, following the names of candidates for state, county and other offices to be voted for at such election, and the name of the local unit shall be prominently printed on the ballot to indicate the portion of the ballot on which the names of the local candidates appear. The order in which The names of such candidates for local offices shall be placed upon such machines shall be prescribed by the board of election commissioners of the city, village or township, as the case may be. Where amendments to the constitution or other questions are to be voted on, such amendments or questions shall be placed on the voting machine upon the portion of the keyboard provided therefor or upon any other available space when deemed advisable by the board of election commissioners of the county, city, village or township. In city and village elections where any special question is to be voted on, a condensed statement of such question not to exceed 100 words may be placed upon the voting machine in lieu of a verbatim statement of such question. Such condensed statement shall be in such form as to apprise the voter of the exact question to be voted on. Said provision may also apply to amendments, provided that verbatim statements thereof shall in such cases be placed conspicuously within the machine booth so that each voter may, if he desires, read the entire context of such amendments; such condensed statements shall be written under the direction of the proper legal authority in the state, county, city, village or township, as the case may be. Two or more independent nominations may be placed on the same party row and such candidates shall be voted for individually. The party lever or device, if any, in connection with such party row, shall be locked whenever such party row does not contain the names of candidates of a party organization or the names of an independent body which may have nominated candidates for more than 1 office. The vignettes adopted for such independent candidates, if any, shall be printed upon the ballot labels in connection with the names of such candidates. Where voting machines are purchased or are used, the election commissioners of the county, city, village or township shall not be required to print and furnish paper ballots for election districts using voting machines, except for any question or matter that cannot be provided for by the voting machines. The board of election commissioners of the county shall cause to be printed ballot labels or slips containing the names of candidates for all offices to be voted for or questions to be voted upon, except when the city, village or township officials only are to be elected, at which time the city, village or township clerk shall provide such ballot labels for use upon such voting machines, and shall forward the same to the board of election commissioners of each city, village or township within the county where such voting machines are used at least 5 secular days before the day of

election. Whenever local officers are to be elected at any such general election, it shall be the duty of the city, township or village clerk, respectively, to file with the board of election commissioners of the county, the titles of offices, the names of all candidates to be voted for, and all questions or propositions to be voted upon within such city, township or village, at that election.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1957, Act 293, Eff. Sept. 27, 1957;—Am. 1959, Act 173, Eff. Mar. 19, 1960;—Am. 1961, Act 178, Eff. Sept. 8, 1961.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

**Popular name:** Election Code

#### **168.776 Voting machines; supplies and equipment; keys, delivery and return.**

Sec. 776. Not to exceed 3 additional sets of ballot labels shall be provided for each polling place for each election for use on the voting machine, and the same shall be delivered by the board of election commissioners to the election board of each voting precinct. Envelopes for the delivery and return of the keys of the voting machine shall be furnished by the county or city clerk, upon which shall be printed or written the number of the machine, the ward or precinct and the record of the protective counter, if any, and the numbers of the seals before and after the election, each of which shall be correctly filled out and be delivered to the proper board or official: Provided, however, That in communities where the registration books and supplies are delivered to their respective boards by the local law enforcement agency, a key ring to which is attached the keys to the voting machine and tags bearing the number of the machine and the ward and/or precinct, may be delivered by said agency to the proper board or official. The number registered on the protective counter, if any, and the numbers of the seals before the election, and after, if used, shall be recorded in the "statement of returns". At the close of the polls, the key ring containing the keys to the voting machine and the tags bearing the number of the machine and of the ward and/or precinct shall be returned to the city, village or township clerk. In all general or city elections where voting machines are used, there shall be furnished by the board of election commissioners, to the election board in each such precinct, a sufficient number of instruction ballots or wall diagrams showing the keyboard of the voting machine with the titles of offices, names of candidates, with designating numbers and letters, if any, and questions, and with illustrations and brief instructions on how to vote.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.777 Voting machines; model, instructions.**

Sec. 777. A model representing a portion of the face of the machine and containing fictitious names must be delivered to each board of election inspectors for use on election day, and one of said board, or some one appointed by said board, shall offer to exhibit and explain the operation of the voting machine, by use of the model, to each voter before such voter shall be allowed to vote. Printed instructions on how to vote, circulated to voters, must conform to the instructions approved by the official providing ballots, and adapted to the machine used.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.778 Voting machines; control; clerk and assistants as officers of election; compensation; exception; number of assistants; preparation of machines; inspection; certification; lighting; delivery of machines; police protection; supervision of machines.**

Sec. 778. The clerk of a city, village, or township in which voting machines are used shall have complete control of the machines. However, if the machines are owned by the county, this control is vested in the county clerk. The clerk and his or her authorized assistants are, for the purpose of this chapter, officers of election and may be paid for the time spent in the discharge of their duties, in the same manner as other election officers are paid. However, this section does not apply to a city where the clerk or his or her authorized assistants receive compensation that is fixed by the legislative body. In cities where there are more than 20 voting machines, more than 1 authorized assistant may be appointed. The clerk or his or her authorized assistants shall cause the machines to be properly labeled, put in order, set, and arranged. In preparing a voting machine for an election, the clerk or his or her authorized assistants shall arrange the machine and the ballots so that it will meet the requirements for voting and counting at the election, and thoroughly test and seal or lock the machine. When a machine has been prepared for the election, the election commissioners, or their authorized assistants, shall inspect the machine to determine whether it is properly prepared. An authorized assistant shall not be the same person who prepared and set the voting machine. The

election commissioners or their authorized assistant shall prepare and file with the commissioners a written certificate certifying to the correct adjustment of the machine, the number of the machine, whether or not all the candidates and question counters and the public counter are set at zero, the number registered on the protective counter, if one is provided, and the number of the metal seal with which the machine is sealed. In elections in which state and county officers are to be voted for, an additional certificate shall be filed with the county clerk. Each voting machine shall be furnished with a light sufficient to enable voters while in the booth or other enclosure to read the ballot labels, and suitable for use by the election officers in examining the counters of the machine. The clerk or his or her authorized assistants shall cause the voting machines to be delivered at the polling places in which they are to be used at least 1 hour before the time set for opening the polls. Police protection shall be furnished by the local authorities whenever the officers charged with the duty of preparing the machines consider protection necessary to prevent possible injury to a machine, but the machines shall at all times be under the supervision of an officer, except during the hours prescribed by law for voting on election day.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1990, Act 95, Imd. Eff. June 6, 1990.

**Popular name:** Election Code

### **168.779 Election inspectors; qualifications as to voting machines.**

Sec. 779. No inspector of election shall serve in any election at which a voting machine is used unless he shall have received instruction as provided in section 683 of this act and is fully qualified to perform his duties in connection with the machine. This shall not prevent the appointment of an inspector of election to fill a vacancy in an emergency.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1962, Act 67, Eff. Mar. 28, 1963.

**Popular name:** Election Code

### **168.780 Repealed. 1955, Act 271, Imd. Eff. June 30, 1955;—1955, Act 283, Imd. Eff. July 19, 1955.**

**Compiler's note:** The repealed section dispensed with all clerks and gatekeepers in any city, village or township where voting machines were used.

**Popular name:** Election Code

### **168.781 Election inspectors and poll clerks; opening of polls, examination of machine seals and counter, delivery of keys, other duties.**

Sec. 781. The inspectors of election and poll clerks, if any, of each district shall meet at the polling place therein, at least 1/2 hour before the time set for the opening of the polls at such election, and shall proceed to arrange within the guard rail the furniture and voting machine for the conduct of the election. The inspectors of election shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election, and the registry of the electors required to be made and kept therefor. The inspectors shall thereupon cause at least 2 instruction cards to be posted conspicuously within the polling place. If not previously done, they shall insert in their proper place on the voting machine the ballot labels containing the names of the offices to be filled at such election, the names of the candidates nominated therefor and the question, if any, to be voted upon. The keys of the voting machines shall be delivered to the election officers or chairman of the election board not more than 24 hours nor less than 1/2 hour before the time set for opening the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number on the seal and, if provided with a protective counter, the number registered on such counter as reported by the clerk or his authorized assistants: Provided, That where key rings to which are attached the keys to the voting machines, with tags bearing the numbers of the machines and of the wards and/or precincts, are delivered by the local law enforcement agency, the number on the seal and of the protective counter, if any, shall be recorded in the statement of returns. Before opening the machine, at least 2 of the officers present shall examine the number of the seal on the machine, also the number registered on the protective counter, if one is provided, and shall see if they are the same as recorded on the envelope containing the keys or on the statement of returns. If found not to agree, the machine must not be opened until the clerk, or the assistant duly appointed and authorized to act for such clerk, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and the protective counter, if one is provided, are found to agree with the numbers on the envelope or statement of returns, the inspectors shall proceed to open the doors concealing the counters. Before the polls are opened for the election, each inspector shall carefully examine every candidate and question counter and see that it registers zero, and the same shall be subject to the inspection of the official challengers who may be present. If any counter for a candidate or

question is found not to register zero, the inspectors of election shall immediately notify the county, city or township clerk, under whose direction such machine has been prepared for election, and said clerk or the assistant appointed by him shall adjust the counter at zero, re-examine the machine and certify to its proper adjustment for use in the election. During the examination of the voting machine by the inspectors of election, the machine shall remain locked against voting until the polls are formally opened, and shall not be operated except by the electors in voting, or by the inspectors in recording absent voters' ballots.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.782 Repealed. 1966, Act 62, Imd. Eff. June 9, 1966.**

**Compiler's note:** The repealed section pertained to irregular and emergency ballots.

**Popular name:** Election Code

#### **168.782a Voting machines; voting for more write-in candidates than space on machine, procedure.**

Sec. 782a. If any voter wishes to vote for more write-in candidates than there are spaces upon the voting machine or for any person whose name is not on the machine or for any combination of names that cannot be voted with the machine, the following procedure shall be followed:

- (a) The voter shall notify an election inspector of the situation.
- (b) The election inspector shall tell the voter to clear the voting machine, in secret, of all votes including write-ins that the voter has attempted to cast.
- (c) The voter shall advise the election inspector when he has cleared the machine.
- (d) Not less than 2 election inspectors who shall not be of the same political party shall then inspect the machine to determine whether it is cleared, and if not, shall proceed to clear the machine, including the write-in slots.
- (e) The election inspectors shall then operate the appropriate voting machine mechanism to prepare the machine for the next voter.
- (f) The election inspectors shall make a notation of the facts in the poll book and shall initial the notation.
- (g) The election inspectors shall provide the voter with a complete set of paper ballots identical to the paper ballots used by absentee voters in that precinct, and shall also provide the voter with an unsealed envelope in which to deposit the ballots.
- (h) The voter shall mark his ballots, in secrecy, and deposit them in the envelope provided, seal the envelope and hand the sealed envelope to an election inspector.
- (i) The election inspector shall commingle the envelope with absentee ballot return envelopes of the precinct, if any.
- (j) The envelopes and ballots shall be called, tallied and processed in the same manner as absentee ballots.
- (k) If any paper ballots are cast under the provisions of this section in any municipality using absent voter counting precincts, the chairman of the election board in the precinct where the ballots were cast shall immediately upon the close of the polls notify the clerk of the governmental unit of such fact and the clerk shall cause the ballots to be transmitted to the absent voter counting precinct.

**History:** Add. 1966, Act 62, Imd. Eff. June 9, 1966.

**Popular name:** Election Code

#### **168.782b Emergency ballots.**

Sec. 782b. If there is no reserve machine available, emergency ballots may also be provided by the county board of election commissioners. Emergency ballots shall have suitable blank spaces to permit the voter to vote for the candidates for whom the elector desires to vote. The ballots shall be used only in emergency and upon special permission of the board or official whose duty it is to provide ballots for the election. The board or official shall prepare the emergency ballots that shall be held by the city, township, or village clerk, subject to the order of the county clerk or other authorized person. It is not necessary to provide emergency ballots for each election unless previously provided ballots have been used, destroyed, or lost, in which case similar ballots shall again be provided. If at any time during the election, the voting machine is disabled and cannot be repaired and no other voting machine is available, an emergency shall be declared to exist and the voting after an emergency is declared at that election in that voting precinct shall be by emergency ballot, in the manner provided in this section. The board or official that has custody of the emergency ballots, when so directed, shall supply a sufficient number of emergency ballots to the election board for use by the voters. One of the ballots shall be delivered by the election board to each voter who appears to vote after an emergency is declared. Emergency ballots shall be voted and counted subject to the provisions relative to

voting by ballot at general elections, except as otherwise provided in this section. The ballots shall be numbered consecutively from 1 up, and the number and identification shall be printed on a perforated stub as in the case where only regular ballots are used at elections.

**History:** Add. 1966, Act 62, Imd. Eff. June 9, 1966;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_  
No \_\_\_\_\_

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.783 Voting machines; challenged voter, procedure.**

Sec. 783. When the right of any person offering to vote is challenged and his answers under oath shall show him to possess the qualifications to vote at that precinct, he must be allowed to cast his vote either upon the regular keyboard of the machine, or upon the machine in the space provided for voting an “irregular ballot”, or upon a ballot such as provided for absent voters, in the discretion of the precinct inspectors. The poll list shall be marked and the paper ballot, if used, shall be identified in the manner provided where voting machines are not used and such ballots shall be counted, recorded and preserved in the same manner as prescribed elsewhere in this chapter for the handling of absent voters' ballots. If the vote be cast upon the machine in the space provided for voting an “irregular ballot”, the poll list number shall be written in the space on the machine next preceding the ballot cast and the number concealed and the ballot preserved as near as possible in the manner as prescribed in case the voter is permitted to use the paper ballot.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.784 Voting machines; irregular ballots, unlawful use.**

Sec. 784. With the exception of persons not nominated or for a combination of names that cannot be voted with the machine and except for voting for president and vice-president and except for challenged votes, no irregular ballot shall be voted for any person for any office, whose name appears on the machine as a nominated candidate for that office. An irregular ballot must be cast in its appropriate place on the machine or it shall be void and not counted.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.785 Voting machines; location.**

Sec. 785. The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and the public. The voting machine shall be placed at least 3 feet from every wall and partition of the polling place.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.786 Voting machines; voting; secrecy; time limit.**

Sec. 786. Only 1 voter at a time shall be permitted to pass within the guard rail to vote. The operating of

the voting machine by the elector while voting shall be secret and obscure, from all other persons, except as provided by this act in cases of assisted electors or a minor child accompanying an elector in the booth or voting compartment under section 736a. A voter shall not have the right to remain within the voting machine booth longer than 2 minutes and if he or she refuses to leave it after the lapse of 2 minutes, the voter shall be removed by the inspectors. However, the inspectors may grant the voter further time in their discretion.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1996, Act 213, Imd. Eff. May 28, 1996.

**Compiler's note:** This section was amended by Act 240 of 1964, but that act was disapproved by the voters in the November, 1964, election.

**Popular name:** Election Code

#### **168.787 Voting machines; keyboard concealed.**

Sec. 787. The front of the voting machine shall be in full view of the inspectors and bystanders at all times during the election, and the machine shall be so placed or equipped that the keyboard of the machine shall be concealed from the view of all persons, except the voter, so that the voting of each voter shall be in secrecy.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.788 Voting machines; locking.**

Sec. 788. An inspector of election shall attend to the locking and unlocking of the machine and it shall be his duty to prevent said machine from being unlocked at any time during said election, except when a voter is within for the purpose of voting, and whenever a voter has voted the inspector shall lock the machine and it shall remain so until another voter enters for the purpose of voting.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.789 Voting machines; election inspectors, instructions to voter, assistance to incapacitated voter.**

Sec. 789. In case any elector, after entering the voting machine booth, shall ask for further instructions concerning the manner of voting, 2 inspectors shall give such instructions to him, but no inspector or other election officer or person assisting at any election shall set such machines for any such elector, or move, turn or operate any lever or other part or mechanism of such machine for such elector, or in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such elector shall be left alone in the voting machine booth and shall vote as in the case of an unassisted voter, and no inspector or other election officer or person assisting at any election shall be present in such voting machine booth when any such elector sets or operates such machine. When an elector shall make oath that because of physical disability he cannot set or operate such machine, or when such disability shall be made manifest to said inspectors, such machine shall be set and operated for him and in accordance with the manner in which he wishes to vote by 2 inspectors designated by the board for that purpose.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

#### **168.790 Voting machines; defacing, altering or injuring machine or labels.**

Sec. 790. No voter or other person shall deface, alter or injure the voting machine or change position of the ballot labels thereon. It shall be the duty of the inspectors of election to enforce the provisions of this section. The inspectors of election shall, at such intervals as they may deem proper or necessary, examine the face of the machine to ascertain whether it has been defaced, altered or injured, to detect the wrongdoer and to repair any injury.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1957, Act 159, Eff. Sept. 27, 1957.

**Popular name:** Election Code

#### **168.791 Voting machines; sealing against voting; reading and announcement of vote; absent voters' ballots; legality; count and tally; completion of returns; availability; sealing and locking machine.**

Sec. 791. As soon as the polls of election are officially closed and the last voter has voted, the inspectors of election shall seal the operating lever of the machine, if any, against voting, with the numbered metal seal provided for that purpose and open the counter compartment in the presence of the challengers and all other

persons lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board shall then under the scrutiny of another member, in the order of the offices as their titles appear on the machine, read and announce in a distinct voice the candidate's name or the designating number and letter, if any, of each counter for each candidate's name and the number of votes shown on said counter, and shall then in like manner read and announce the vote on each constitutional amendment, proposition or other question. He shall also announce the vote as recorded for each office on the irregular ballots, if any. The candidate counters shall be read consecutively along the row or column and the votes as registered and announced shall be entered in ink by members of the board, directly into the inspectors' statement of returns, in the space which has the same candidate's name or designating number and letter, if any. After recording on the inspectors' statement of returns, the vote as shown by the counters, the figures shall be verified by being called off in the same manner from the counters of the machine by another inspector. At least 2 copies of the statement of returns shall be made simultaneously.

When absent voters' ballots have been returned to the city clerk and delivered to the precinct board of election inspectors such election inspectors shall determine the legality of such ballots as prescribed in this act, and shall count and tally the votes on such ballots on 2 separate tally sheets which shall be provided by the county clerk. The canvass will be performed in the same manner as is provided for paper ballot precincts. The totals from this canvass shall be entered separately on the statement of returns and also included in the total precinct vote as shown on the statement.

The counter compartment of the voting machine shall remain open until the statement of returns and other records, if any, have been fully completed and signed by the election board. During such time any challenger of any party, duly accredited as provided by the election law, who may desire to be present shall be admitted to the polling place. Immediately after the canvass has been completed, the results, stating the total number of votes received by each person voted for in said precinct for any office and the number of votes for and the number of votes against any proposed constitutional amendment or other submitted proposition, shall be made available to interested persons who may be present. Ample opportunity shall be given to any person lawfully present to compare the results with the counterdials of the machine and any necessary corrections shall then and there be made by the election board, after which the doors of the voting machine shall be closed and locked.

When absent voters' ballots have been cast in the voting precinct, the machine shall not be closed and locked until such ballots, from which the perforated numbered corners have been detached, have been sealed in an envelope provided for that purpose or wrapped and tied in the manner provided at elections where voting machines are not used, and placed inside the machine, after which the doors shall be securely closed and locked. On the envelope or wrapper shall be printed a certificate which shall be signed by all members of the election board certifying that the absent voters' ballots contained therein have been properly recorded on the absent voters' tally sheet and the statement of returns.

Such machines shall remain sealed or locked and shall not be operated subsequent to any primary or election until the day following the last day for filing petitions for recount of any votes cast on such machines, after which period the seals may be broken and machines released, unless a recount petition has been filed and the recount not completed, or the release of the machine has been stayed by a court order. In any case, the seals shall be broken and machines released not less than 20 days preceding an election at which such machines are to be used. In city, village and township elections, the legislative body may, if not prohibited by the charter of such city, village or township, provide for a different period during which the machine shall remain sealed or locked.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1965, Act 331, Imd. Eff. July 23, 1965;—Am. 1970, Act 2, Imd. Eff. Feb. 10, 1970.

**Popular name:** Election Code

### **168.791a Printer type voting machines; definition, operation.**

Sec. 791a. "Printer type voting machine" as used in this act means a voting machine which prints the reading upon each of the respective candidate and proposition counters directly upon one or more sheets of paper and shows the counter reading as appearing upon such machine both before the opening of the polls and after the last vote is recorded. If a printer type voting machine is used in a precinct at an election, the board of election inspectors of the precinct shall not have a key to the counter compartment of the machine, nor open the same at any time. All of the other provisions of this act relating to the conduct of elections through the use of voting machines shall be applicable to such machines, except that the counter readings shall be taken from the printed sheets rather than from the respective counters, and such sheets shall be subject to inspection the same as the counters would otherwise be. At the conclusion of the precinct canvass, one sheet showing the reading upon each of the respective counters after the last vote is recorded upon each of such machines used

in the precinct, shall be included with the returns to the county board of canvassers, and one sheet from each of such machines shall be included with the returns to the local clerk. One of such sheets from each machine, and one sheet showing the counter reading as appearing before the opening of the polls, shall be locked in the machine from which the same was taken. Such sheets shall be initialed by each of the members of the precinct board of election inspectors before completing the returns.

**History:** Add. 1963, Act 171, Eff. Sept. 6, 1963.

**Popular name:** Election Code

### **168.792 Voting machines; discrepancy in return; re-canvass; examination, statement of result; petition for recount.**

Sec. 792. (1) If it appears that there is a discrepancy in the returns of any election district, the board of county canvassers, or the authorized representatives of the board of county canvassers, shall make a record of the number of the seal, if any, the number on the protective counter, if one is provided, and shall open the counter compartment of the machine, and without unlocking the machine against voting, shall re-canvass the vote cast on the machine. Before making the re-canvass, the board of county canvassers shall give sufficient notice in writing to the clerk of the time and place where the re-canvass is to be made.

(2) If upon re-canvass it is found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the clerk or authorized assistant of the clerk, in the presence of the election inspectors and the board of county canvassers, shall unlock the voting and counting mechanism of the machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the return from the machine.

(3) Before testing the machine, the counters in the party row or column in which the discrepancy is alleged to have occurred shall be set at zero after which each of the counters shall be operated at least 100 times.

(4) After the completion of the examination, the clerk or authorized assistant of the clerk shall then and there prepare a statement in writing giving the result of the test, and the statement shall be witnessed by the persons present and shall be filed with the board of county canvassers.

(5) A candidate voted for at any election who conceives himself or herself aggrieved on account of any fraud, error, or mistake in the canvass of the vote by the election inspectors or in the returns made by the election inspectors may file a written petition for a recount with the board of county canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2013, Act 51, Imd. Eff. June 11, 2013.

**Popular name:** Election Code

### **168.792a Absent voter counting boards.**

Sec. 792a. (1) For elections conducted before July 1, 2014, if a city, township, or village decides to use absent voter counting boards, the board of election commissioners of that city, township, or village may establish an absent voter counting board for each election day precinct in that city, township, or village. For elections conducted on or after July 1, 2014, if a city, township, or village decides to use absent voter counting boards, the board of election commissioners of that city, township, or village shall establish an absent voter counting board for each election day precinct in that city, township, or village. The ballot form of an absent voter counting board shall correspond to the ballot form of the election day precinct for which it is established. After the polls close on election day, the county, city, township, or village clerk responsible for producing the accumulation report of the election results submitted by the boards of precinct election inspectors shall format the accumulation report to clearly indicate all of the following:

(a) The election day precinct returns.

(b) The corresponding absent voter counting board returns.

(c) A total of each election day precinct return and each corresponding absent voter counting board return.

(2) The board of election commissioners shall establish the absent voter counting boards. The board of election commissioners shall determine the number of absent voter counting boards to be established and shall appoint the election inspectors to those absent voter counting boards 10 days or more before the election at which they are to be used. Sections 673a and 674 apply to the appointment of election inspectors to absent voter counting boards under this section. The board of election commissioners shall determine the number of ballots that may be expeditiously counted by an absent voter counting board in a reasonable period of time, taking into consideration the size and complexity of the ballot to be counted pursuant to the guidelines of the secretary of state. Combined ballots shall be regarded as the number of ballots as there are sections to the ballot.

(3) If more than 1 absent voter counting board is to be used, the city, township, or village clerk shall determine the number of voting machines or the number of ballot boxes and the number of election inspectors to be used in each of the absent voter counting boards and to which absent voter counting board the absent

voter ballots for each precinct shall be assigned for counting. The clerk shall make the determination under this subsection 2 days or more before the election and shall not assign an absent voter counting board more ballots than the maximum number authorized by the board of election commissioners under subsection (2). The clerk is not required to use all of the absent voter counting boards authorized by the board of election commissioners under subsection (2).

(4) In a city, township, or village that uses absent voter counting boards under this section, absent voter ballots shall be counted in the manner provided in this section and absent voter ballots shall not be delivered to the polling places. The board of election commissioners shall provide a place for each absent voter counting board to count the absent voter ballots. Section 662 applies to the designation and prescribing of the absent voter counting place or places in which the absent voter counting board performs its duties under this section. The places shall be designated as absent voter counting places. Except as otherwise provided in this section, laws relating to paper ballot precincts, including laws relating to the appointment of election inspectors, apply to absent voter counting places. If a counting place uses voting machines, the provisions of this section relating to placing of absent voter ballots on voting machines apply. More than 1 absent voter counting board may be located in 1 building.

(5) The clerk of a city, township, or village that uses absent voter counting boards shall supply each absent voter counting board with supplies necessary to carry out their duties under this act. The supplies shall be furnished to the city, township, or village clerk in the same manner and by the same persons or agencies as for other precincts.

(6) Absent voter ballots received by the clerk before election day shall be delivered to the absent voter counting board by the clerk at the time the election inspectors of the absent voter counting boards report for duty, which time shall be established by the board of election commissioners. Absent voter ballots received by the clerk on election day shall be delivered to the absent voter counting boards before the time set for the closing of the polls. Absent voter ballots shall be delivered to the absent voter counting boards in the sealed absent voter ballot return envelopes in which they were returned to the clerk. Written or stamped on each of the return envelopes shall be the time and the date that the envelope was received by the clerk and a statement by the clerk that the signatures of the absent voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards or the digitized signatures of voters contained in the qualified voter file as provided under section 766. If a signature on the registration card or a digitized signature contained in the qualified voter file and on the absent voter ballot return envelope does not agree as provided under section 766, if the absent voter failed to sign the envelope, or if the statement of the absent voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason for the rejection and shall place his or her name under the notation. An envelope marked "rejected" shall not be delivered to the absent voter counting board but shall be preserved by the clerk until other ballots are destroyed in the manner provided in this act. The clerk shall also comply with section 765(5).

(7) At the time of issuing or mailing absent voter ballots to qualified applicants, the clerk of a city, township, or village that uses absent voter counting boards shall mark the letters "A.V." and the date of election on the registration card of the applicant in the precinct registration file.

(8) This chapter does not prohibit an absent voter from voting in person within the voter's precinct at an election, notwithstanding that the voter may have applied for an absent voter ballot and the ballot may have been mailed or otherwise delivered to the voter. The voter, the election inspectors, and other election officials shall proceed in the manner prescribed in section 769. The clerk shall preserve the canceled ballots for 2 years.

(9) The absent voter counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with the absent voter list or record required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing and tallying of absent voter ballots may commence at 7 a.m. on the day of the election.

(10) An election inspector, challenger, or any other person in attendance at an absent voter counting place at any time after the processing of ballots has begun shall take and sign the following oath that may be administered by the chairperson or a member of the absent voter counting board:

"I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place until after the polls are closed."

(11) The oaths administered under subsection (10) shall be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election the oaths shall be delivered to the city, township, or village clerk. Except as otherwise provided in subsection (16), a person in attendance at the absent voter counting place shall not leave the counting place after the tallying has begun until the polls close. A person

who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.

(12) At the time the board of election commissioners provide for the use of absent voter counting boards, the board of election commissioners may provide that the absent voter counting boards shall record the votes contained on absent voter ballots on voting machines. In that case, the recording of ballots shall be done by the chairperson of the absent voter counting board or another member designated by the chairperson. The act of casting the votes shall be performed in the presence of and under the careful observation and full view of all members of the absent voter counting board, party challengers, and any other persons lawfully present at the absent voter counting place. The vote as indicated by the voting pointers shall not be recorded until each member of the absent voter counting board is satisfied that the arrangement of the voting pointers fully carries out the intent of the absent voter as shown by the cross marks or check marks on the absent voter ballot. A certificate that the requirements of this subsection were met shall be made on the election inspectors' statement of returns.

(13) As soon as absent voter ballots have been cast on a voting machine pursuant to subsection (12), but not before 8 p.m., the election inspectors shall seal the operating lever of the machine against voting and shall then proceed to determine and record the votes cast in the manner provided in this act.

(14) Voted absent voter ballots shall be placed in a ballot box and the ballot bag and ballot box shall be sealed in the manner provided by this act for paper ballot precincts. The seal numbers shall be recorded on the statement sheet and in the poll book.

(15) In a city, township, or village where challenged voters are required to vote on absent voter ballots, each challenged voter ballot and application for ballot, after having been voted and properly identified, shall be placed by the voter in an absent voter ballot return envelope. The applicable information required on the back of the envelope shall be completed by the board of election inspectors. The envelope shall be signed by the challenged voter and by the chairperson of the precinct board of election inspectors. The word "challenged" shall be written across the front of the envelope. The envelope and application for ballot shall be sealed and delivered to the absent voter counting place by the clerk of the city, township, or village. Immediately after the closing of the polls, the chairperson of the precinct board of election inspectors shall notify the clerk of the city, township, or village of remaining challenged voter ballots to be delivered to the absent voter counting place. In a city, township, or village that uses voting machines where absent voter counting boards are not used, challenged ballots shall be counted and tallied in the precincts, in the same manner that absent voter ballots are tallied and counted as provided in section 791.

(16) Subject to this subsection, a local election official who has established an absent voter counting board, the deputy or employee of that local election official, or an employee of the state bureau of elections may enter and leave an absent voter counting board after the tally has begun but before the polls close. A person described in this subsection may enter an absent voter counting board only for the purpose of responding to an inquiry from an election inspector or a challenger or to provide instructions on the operation of the counting board. Before entering an absent voter counting board, a person described in this subsection shall take and sign the oath prescribed in subsection (10). The chairperson of the absent voter counting board shall record in the poll book the name of a person described in this subsection who enters the absent voter counting board. A person described in this subsection who enters an absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony. As used in this subsection, "local election official" means a county, city, township, or village clerk.

(17) The secretary of state shall develop instructions consistent with this act for the conduct of absent voter counting boards. The secretary of state shall distribute the instructions developed under this subsection to city and township clerks 40 days or more before a general election in which absent voter counting boards will be used. A city or township clerk shall make the instructions developed under this subsection available to the public and shall distribute the instructions to each challenger in attendance at an absent voter counting board. The instructions developed under this subsection are binding upon the operation of an absent voter counting board used in an election conducted by a county, city, township, or village.

**History:** Add. 1961, Act 230, Eff. Sept. 8, 1961;—Am. 1965, Act 331, Imd. Eff. July 23, 1965;—Am. 1970, Act 2, Imd. Eff. Feb. 10, 1970;—Am. 1971, Act 15, Eff. Mar. 30, 1972;—Am. 1973, Act 15, Imd. Eff. Apr. 30, 1973;—Am. 1980, Act 140, Imd. Eff. May 29, 1980;—Am. 1985, Act 160, Imd. Eff. Nov. 20, 1985;—Am. 1990, Act 95, Imd. Eff. June 6, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2005, Act 71, Imd. Eff. July 14, 2005;—Am. 2012, Act 272, Imd. Eff. July 3, 2012.

**Compiler's note:** Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is

found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

**Popular name:** Election Code

### **168.792b Repealed. 1983, Act 181, Imd. Eff. Oct. 25, 1983.**

**Compiler's note:** The repealed section pertained to inapplicability of MCL 168.792a in presidential primary elections.

**Popular name:** Election Code

### **168.793 Voting machines; inspectors' statement forms.**

Sec. 793. The proper board of election commissioners shall furnish the necessary inspectors' statement of returns sheets and the certificates and envelopes suitable to the machine used, together with ballot labels and other election supplies for each election, to be delivered to the respective boards of election inspectors to make returns where voting machines are to be used. The form of the inspectors' statement of returns sheets shall be suitable to the type of machine used and the inspectors' certificate contained therein shall in addition certify to the machine number, the number on the protective counter, if any, the number on the seal, and that all candidate counters, question counters and the public counter registered zero before the polls opened; also the record on the protective counter and on the seal, if any, with which the machine is sealed by the inspectors, the number on the public counter and the number of names on the poll list after the polls close; also a record of the disposition of the absent voters' ballots as provided in section 791 of this act. As soon as the names of all candidates for the several offices to be elected at that election are filed as required by law, the board or official whose duty it is to prepare the ballot labels for the machine, shall forthwith have the names of each regularly nominated candidate, together with the designating number and letter, if any, corresponding to each of the candidate's counter on the voting machine, printed in the space provided therefor: Provided, That in case of the death, resignation or failure to qualify of any of such candidates after such inspectors' statement of returns are printed, a slip may be furnished giving the name, designating number and letter, if any, of the candidate substituted therefor and same shall be pasted, before the delivery of the inspectors' statement of returns to the board of inspectors, over the candidate's name who died, resigned or failed to qualify.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

### **168.794 Definitions used in MCL 168.794 to 168.799a.**

Sec. 794. As used in sections 794 to 799a:

(a) "Audit trail" means a record of the votes cast by each voter that can be printed, recorded, or visually reviewed after the polls are closed. The record shall not allow for the identification of the voter.

(b) "Ballot" means a card, ballot label, paper ballot, envelope, or any medium through which votes are recorded.

(c) "Ballot label" means the display or material containing the names of offices and candidates or the questions to be voted on.

(d) "Counting center" means 1 or more locations selected by the board of election commissioners of the city, county, township, village, or school district at which ballots are counted by means of electronic tabulating equipment or vote totals are electronically received from electronic tabulating equipment and electronically compiled.

(e) "Electronic tabulating equipment" means an apparatus that electronically examines and counts votes recorded on ballots and tabulates the results.

(f) "Electronic voting system" means a system in which votes are recorded and counted by electronic tabulating equipment.

(g) "Escrow account" means a third party approved by the secretary of state for the purpose of taking custody of all source codes, including all revisions or modifications of source codes.

(h) "Source code" means the assembly language or high level language used to program the electronic voting system.

(i) "Voting device" means an apparatus that contains the ballot label and allows the voter to record his or her vote.

(j) "Voting station" means an enclosure provided to ensure ballot secrecy during the voting of the ballot.

(k) "Memory device" means a method or device used to store electronic data.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

**Popular name:** Election Code

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**168.794a Electronic voting system; authorization; acquisition; abandonment; use; accuracy test; applicability of subsections (1) and (2).**

Sec. 794a. (1) Subject to this section, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, by a majority vote, may authorize, acquire by purchase, lease, or otherwise, adopt, experiment with, or abandon an electronic voting system approved for use in this state in an election, and may use the system in all or a part of the precincts within its boundaries, or in combination with other approved voting systems.

(2) A new electronic voting system shall not be used at a general election in a county, city, or township unless, in addition to the other requirements of this act, all of the following requirements are met:

(a) The county, city, or township purchases or otherwise acquires the electronic voting system 6 months or more before the next general election to be held in that county, city, or township.

(b) The county, city, or township uses the electronic voting system at a primary, special, or other local election held in the county, city, or township before the general election.

(3) The appropriate board of election commissioners shall provide for an accuracy test of an electronic voting system in the manner prescribed in rules promulgated by the secretary of state. The secretary of state shall prescribe procedures for preparing test decks and conducting accuracy tests for electronic voting systems in this state.

(4) Before an election held in a county, city, township, village, or school district, the secretary of state may randomly select and test for accuracy an electronic voting system to be used by the county, city, township, village, or school district in that election. The secretary of state shall use the test decks prepared by the secretary of state to conduct the random tests allowed under this subsection.

(5) A board of election commissioners shall not use in an election an electronic voting system that has failed the most recent accuracy test performed on that voting system under this act. An electronic voting system may be used after any necessary corrections are made and an accuracy test is passed on the system.

(6) Subsection (1) does not apply to a county, city, village, township, or school district after the county, city, village, township, or school district receives the secretary of state's notice under section 37. Subsection (2) shall apply to a county, city, village, township, or school district after it receives the secretary of state's notice under section 37 if, at the time of the notice, the county, city, village, township, or school district is using an electronic voting system that is the same type as the uniform voting system.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2002, Act 91, Eff. Apr. 9, 2002.

**Popular name:** Election Code

**168.794b Electronic voting system; manner of payment.**

Sec. 794b. The board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, on the adoption and acquisition of an electronic voting system, shall provide for payment for the system in the same manner as is provided for the payment for voting machines in section 774.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

**168.794c Applicability and construction of provisions; rules.**

Sec. 794c. The provisions of sections 794 to 799a control with respect to elections where electronic voting systems are used, and shall be liberally construed so as to carry out the purpose of the provisions. A provision of law relating to the conduct of elections that conflicts with sections 794 to 799a does not apply to the conduct of elections with an approved electronic voting system. The secretary of state shall promulgate rules to implement the provisions of sections 794 to 799a, in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

**168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable; equipping each polling place with accessible voting device.**

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector's ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(l) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(m) Be compatible with or include at least 1 voting device that is accessible for an individual with disabilities to vote in a manner that provides the same opportunity for access and participation, including secrecy and independence, as provided for other voters. The voting device shall include nonvisual accessibility for the blind and visually impaired.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls. Electronic tabulating equipment that tabulates ballots, including absentee ballots, at a central location shall be programmed to reject a ballot if the choices recorded on an elector's ballot for an office or a question exceed the number that the elector is entitled to vote for on that office or question, if no valid choices are recorded on an elector's ballot, or if, in a primary election, votes are recorded for candidates of more than 1 political party.

(3) Beginning January 1, 2006, each jurisdiction in this state conducting an election shall equip each polling place with at least 1 accessible voting device as required under subsection (1)(m).

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1998, Act 21, Imd. Eff. Mar. 12, 1998;—Am. 1999, Act 218, Eff. Mar. 10, 2000;—Am. 2002, Act 91, Eff. Apr. 9, 2002;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001--AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_  
No \_\_\_\_\_”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.795a Electronic voting system; approval by board of state canvassers; conditions; approval of improvement or change; inapplicability of subsection (1); intent to purchase statement; instruction in operation and use; disapproval.**

Sec. 795a. (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 and 795 and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c has been complied with, and unless it meets 1 of the following conditions:

(a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers.

(b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.

(2) The vendor or representative seeking approval of an electronic voting system shall do all of the following:

(a) Deposit with the secretary of state a nonrefundable application fee of \$1,500.00 for a new voting system and a fee of \$500.00 for an upgrade to any existing system.

(b) File with the secretary of state a list of all states in which the voting system has been approved for use. This list shall state how long the system has been used in the state and shall disclose any reports compiled by any state or local government concerning the performance of the system. The vendor shall remain responsible for filing this information on an ongoing basis.

(c) File with the secretary of state copies of all standard contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements shall be filed with the secretary of state.

(d) Pay the cost for any field test required by the board of state canvassers.

(e) State the number of voters each component of the voting system can process per hour under each of the following circumstances:

(i) An election in which there are 10 or fewer items to be voted on the ballot by each voter.

(ii) An election in which the ballot consists of the number of items typically voted on at a presidential general election in this state.

(3) The board of state canvassers shall conduct a field test of all new voting systems as part of the certification process. The field test shall involve Michigan electors and election officials in simulated election day conditions. The test shall be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting stations required for the efficient operation of an election based upon the vendor's statement provided under subsection (2)(e).

(4) The board of state canvassers shall approve an electronic voting system for use in this state only if it meets the conditions of subsection (1) except that in an emergency situation that threatens the ability of a county, city, or township to conduct a scheduled election, the board of state canvassers may approve a correction of software or firmware after testing the software or firmware performance.

(5) If an electronic voting system is approved for use before January 1, 1997 by the board of state canvassers, it may be used in an election. However, if the electronic voting system has its software or firmware improved or changed, the system shall comply with the requirements of subsection (1).

(6) After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to

electronically record and count votes.

(7) A county, city, township, village, or school district shall file “an intent to purchase statement” with the secretary of state 30 days before any purchase agreement is made to purchase a new voting system. The secretary of state shall provide all information concerning the operation of the voting system in Michigan or any other state to the local unit of government within 25 days after receiving the “intent to purchase statement”.

(8) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a and the rules promulgated pursuant to sections 794 to 799a.

(9) If the board of state canvassers determines that an electronic voting system that was approved under subsection (1) no longer meets the requirements described in that subsection, the board of state canvassers may disapprove that voting system. An electronic voting system that has been disapproved by the board of state canvassers under this subsection shall not be used in an election, unless it is reapproved by the board of state canvassers under subsection (1).

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

### **168.795b Printing or displaying ballot labels, questions, office titles, and names of candidates; columns, pages, and directional signs; ballot stub.**

Sec. 795b. (1) Ballot labels shall be printed or displayed in plain, clear, black type on white surface. Questions may be printed or displayed on red tinted surface and the names of candidates for nonpartisan offices on blue tinted surface. County questions may be printed or displayed on green tinted surface and local questions may be printed or displayed on buff surface. In a primary election to identify each political party, the titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages or displays. The office title with a statement of the number of candidates to be voted for shall be printed or displayed above or at the side of the names of the candidates for that office. The offices and candidates shall be printed or displayed in the order provided by law, or if no such provision is made, in the order prescribed by the board of election commissioners of the county, city, village, township, or school district. If there are more candidates for an office than can be printed or displayed in 1 column or on 1 page or display, the ballot label shall be clearly marked that the list of candidates is continued on the following column, page, or display, and so far as possible, the same number of names shall be printed or displayed on each column, page, or display. Arrows or other directional signs may be used to indicate the place to vote for each candidate or question.

(2) Ballots that are processed through electronic tabulating equipment after the elector has voted shall have an attached, numbered, perforated stub.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### **168.795c Indicating different parts of ballot on ballot label; placement of parts; 2 or more elections on same day; partisan elections; straight party ticket vote prohibited; appropriation.**

Sec. 795c. (1) The different parts of the ballot, such as partisan, nonpartisan, and questions, shall be prominently indicated on the ballot label, and, if practicable, each part may be placed on a separate page, column, or display. If 2 or more elections are held on the same day, the ballot label shall be clearly marked to indicate the ballot for each election. In partisan elections, the ballot label shall not include a position by which a voter may by a single selection record a straight party ticket vote for all the candidates of 1 party.

(2) For the 2015-2016 fiscal year, \$5,000,000.00 is appropriated from the general fund to the department of state to purchase voting equipment to implement the elimination of straight party ticket voting.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2015, Act 268, Imd. Eff. Jan. 5, 2016.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared

the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

**“A REFERENDUM ON PUBLIC ACT 269 OF 2001—AN ACT TO AMEND CERTAIN SECTIONS OF MICHIGAN ELECTION LAW**

Public Act 269 of 2001 would:

- Eliminate “straight party” vote option on partisan general election ballots.
- Require Secretary of State to obtain training reports from local election officials.
- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.
- Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_  
No \_\_\_\_\_”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.796 Sample ballots.**

Sec. 796. Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided as required by law. At least 2 copies shall be posted in each polling place on election day. Sample ballots may be printed on a single page or on a number of pages stapled together.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

**168.796a Electronic voting system; preparation for election; equipment and supplies; voting stations.**

Sec. 796a. (1) Before an election at which an electronic voting system is used, the board of election commissioners of the county, city, village, township, or school district shall have the system prepared for the election. The board shall provide the election board of each voting precinct with the necessary equipment and supplies.

(2) Before an election, the board of election commissioners of a county, city, village, township, or school district shall provide a sufficient number of voting stations needed to ensure the orderly conduct of the election taking into consideration the projected turnout, the length of the ballot, and the number of voters the voting system can process per hour as determined under section 795a. As a minimum for each election, the board of election commissioners shall provide at least 1 voting station for each 400 registered voters in each precinct through August 31, 1998 and at least 1 voting station for each 300 registered voters on and after September 1, 1998. If counting centers are used, the board of election commissioners of the county, city, village, township, or school district shall establish 1 or more counting centers as needed before the election.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1987, Act 21, Imd. Eff. Apr. 24, 1987;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 1998, Act 215, Imd. Eff. July 1, 1998.

**Popular name:** Election Code

**168.796b Repealed. 1990, Act 109, Imd. Eff. June 18, 1990.**

**Compiler's note:** The repealed section pertained to instruction of election inspectors.

**Popular name:** Election Code

**168.797 Inspectors of election; duties; certification of equipment operation.**

Sec. 797. Not less than 30 minutes before the opening of the polls, the inspectors of election shall arrive at the polling place and prepare the polling place for voting. The inspectors of election shall determine that the correct ballot has been provided to the precinct by comparing the ballot provided with the sample ballot and any other documents provided to the precinct. The inspectors of election shall complete required tests of the equipment of the electronic voting system and certify in writing that the equipment is operating properly. The written certification shall be on a form prescribed by the secretary of state and shall include pertinent information regarding seal numbers, counters, and the operation and use of the particular equipment.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

**Popular name:** Election Code

**168.797a Instruction in method of voting on electronic voting system; use of ballot processed through electronic tabulating equipment; procedure; detached stub; spoiled ballot; processing of challenged voter ballot; removal of ballot.**

Sec. 797a. (1) Before entering the voting station, each elector shall be offered instruction in the proper method of voting on the electronic voting system. If the elector needs additional instruction after entering the voting station, 2 election inspectors from different political parties may, if necessary, enter the voting station and provide the additional instructions.

(2) If the electronic voting system provides for the use of a ballot that is processed through electronic tabulating equipment after the elector votes, the elector shall transport the ballot to the ballot box, or other approved ballot container, without exposing any votes. An election inspector shall ascertain, by comparing the number appearing on the ballot stub with the number recorded on the poll list, that the ballot delivered by the voter is the same ballot that was issued to the elector. If the numbers do not agree, the ballot shall be marked as “rejected”, and the elector shall not be allowed to vote. If the numbers agree, an election inspector shall remove and discard the stub. Except as otherwise provided in this subsection, the election inspector shall deposit the ballot in the ballot box or other approved ballot container. If electronic tabulating equipment that deposits the voted ballot into the ballot box or other approved ballot container is used at the precinct, the election inspector shall return the ballot to the elector, and the elector shall then deposit the ballot into the electronic tabulating equipment. The electronic tabulating equipment shall be arranged so that the secrecy of the ballot is not violated. If required for the proper operation of the electronic tabulating equipment, 2 election inspectors from different political parties may periodically open the equipment to rearrange voted ballots and may transfer voted ballots to another approved ballot container.

(3) A ballot from which the stub is detached shall not be accepted by the election inspector in charge of the ballot box or other approved ballot container. An elector who spoils his or her ballot may return it and secure another ballot. The word “spoiled” shall be written across the face of the ballot, and the ballot shall be marked and secured for later return.

(4) A ballot of a challenged voter that has the names of candidates and questions printed directly on the voted ballot shall be processed in the manner prescribed for challenging a vote cast by paper ballot. A challenge to a voter voting on an electronic voting system that does not use an individual hard copy ballot shall be processed in the manner prescribed for challenging a vote cast on a voting machine.

(5) Except as otherwise provided in this act, an election inspector shall not allow any portion of a ballot, including a ballot stub, to be removed by any person other than an election inspector from the polling place.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1996, Act 583, Eff. Mar. 31, 1997.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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- Require registered voters who do not appear on registration list to show picture identification before voting a challenged ballot.
- Require expedited canvass if presidential vote differential is under 25,000.
- Require ballot counting equipment to screen ballots for voting errors to ensure the accurate tabulation of absentee ballots. Permit voters in polls to correct errors.

—Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_  
No \_\_\_\_\_

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**168.797b Rules.**

Sec. 797b. The secretary of state shall promulgate rules pursuant to the administrative procedures act of

1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, governing the tabulation of ballots, certification of results, delivery of ballots and certified results, and sealing of devices and ballot boxes after the polls are closed.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

#### **168.797c Computer program; disposition and use of source code.**

Sec. 797c. A person or company providing a computer program that examines, counts, tabulates, and prints results of the votes cast by a voter on an electronic voting system shall place in an escrow account a copy of the source code of the program and any subsequent revisions or modifications of the source code. The secretary of state or an authorized agent of the secretary of state shall agree to use the information contained in the source code solely for the purpose of analyzing and testing the software and shall not disclose proprietary information to any other person or agency without the prior written consent of the vendor.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

#### **168.798 Testing of electronic tabulating equipment; notice; method; sealing programs, test materials, and ballots; rules; sealing memory device.**

Sec. 798. (1) Before beginning the count of ballots, the board of election commissioners shall test the electronic tabulating equipment to determine if the electronic tabulating equipment will accurately count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be given at least 48 hours before the test by publication in a newspaper published in the county, city, village, township, or school district where the electronic tabulating equipment is used. If a newspaper is not published in that county, city, village, township, or school district, the notice shall be given by publication in a newspaper of general circulation in that county, city, village, township, or school district. The test shall be conducted in the manner prescribed by rules promulgated by the secretary of state pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In the test, a different number of valid votes shall be assigned to each candidate for an office, and for and against each question. If an error is detected, the board of election commissioners shall determine the cause of the error and correct the error. The board of election commissioners shall make an errorless count and shall certify the errorless count before the count is started. The electronic tabulating equipment that can be used for a purpose other than examining and counting votes shall pass the same test at the conclusion of the count before the election returns are approved as official.

(2) On completion of the test and count, the programs, test materials, and ballots arranged by precincts shall be sealed and retained as provided by this subsection and rules promulgated by the secretary of state pursuant to Act No. 306 of the Public Acts of 1969. If the electronic tabulating equipment that is tested and certified to by the board of election commissioners will be used to count votes at the precinct, a memory device containing the tested programs, if any, shall be sealed into the electronic tabulating equipment. Upon completion and certification of the count of votes, the memory device containing the program and the vote totals shall remain sealed in the electronic tabulating equipment or, if removed from the electronic tabulating equipment, shall remain sealed in a container approved by the secretary of state, delivered to the clerk, and retained in the manner provided for other voted ballots.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.

#### **168.798a Separate counting center; direction and conduct of proceedings; method.**

Sec. 798a. If a separate counting center is used, all proceedings shall be under the direction of the clerk or authorized assistants. The proceedings shall be conducted under observation by the public, but no persons except those authorized shall touch a ballot or return. Persons who engage in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. If a ballot is damaged or defective so that it cannot properly be counted by the electronic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged or defective ballot. Each duplicate ballot shall be clearly labeled “duplicate”, and shall bear a serial number, which shall be recorded on the damaged or defective ballot.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### **168.798b Electronic tabulating equipment; unofficial and official returns; manual count.**

Sec. 798b. Before the conduct of the official count, the clerk may conduct an unofficial count in order to provide early unofficial returns to the public. Upon completion of the count, the official returns shall be open to the public. The return of the electronic tabulating equipment, to which have been added the write-in and absentee votes if necessary, shall constitute, after being duly certified, the official return of each precinct or election district. If it becomes impracticable to count all or a part of the ballots with tabulating equipment, the clerk may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

### **168.798c Casting absentee votes on paper ballots or ballot cards; count; recording; voting and processing absent voters' ballots; inspection of rejected ballot.**

Sec. 798c. (1) Absentee votes may be cast on paper ballots or ballot cards or both. Absent voter ballots may be counted in the various voting precincts or may be counted by absent voter counting boards. Absentee votes cast on paper ballots may be recorded by election inspectors on ballot cards for counting by tabulating equipment.

(2) In an election held under this act, absent voters' ballots may be voted and processed in the manner provided by this chapter.

(3) If electronic tabulating equipment rejects an absent voter ballot due to programming required under section 795, the rejected ballot shall be inspected to confirm the presence of the error before the ballot is processed. A vote for each elective office or ballot question in which an error is confirmed shall not be counted.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1969, Act 186, Imd. Eff. Aug. 5, 1969;—Am. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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--Require expedited canvass if presidential vote differential is under 25,000.

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--Provide penalties for stealing campaign signs or accepting payment for campaign work while being paid as a public employee to perform election duties.

Should this law be approved?

Yes \_\_\_\_\_

No \_\_\_\_\_”

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

### **168.799 Injuring, altering, or defacing voting device, ballot, or other equipment; interference with correct operation of equipment; enforcement; examination.**

Sec. 799. A person shall not willfully injure any voting device, ballot, or other record or equipment or interfere or attempt to interfere with its correct operation. The inspectors of the election shall enforce the provisions of this section. The inspectors of election, at such intervals as they consider proper, shall examine any voting device, ballot, or other equipment used in the election to ascertain whether it has been injured, altered, or defaced, to detect the wrongdoer, and to repair the injury.

**History:** Add. 1967, Act 155, Imd. Eff. June 30, 1967;—Am. 1990, Act 109, Imd. Eff. June 18, 1990.

**Popular name:** Election Code

**168.799a Recounting punched, marked, or stamped ballot; procedure; stray marks; releasing sealed materials.**

Sec. 799a. (1) This section governs the recounting of a ballot on which a voter has made a selection by means of a punch, mark, or stamp.

(2) If the electronic voting system requires that the elector cast a vote by punching out a hole in a ballot, the vote shall not be considered valid unless the portion of the ballot designated as a voting position is completely removed or is hanging by 1 or 2 corners or the equivalent.

(3) If the electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark subject to recount with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

(4) Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.

**History:** Add. 1990, Act 109, Imd. Eff. June 18, 1990;—Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;—Am. 1997, Act 137, Imd. Eff. Nov. 17, 1997;—Am. 2004, Act 92, Imd. Eff. Apr. 26, 2004.

**Compiler's note:** Act 269 of 2001, which was approved by the Governor and filed with the Secretary of State on January 11, 2002, provided for the amendment of MCL 168.31, 168.73, 168.283, 168.393, 168.509y, 168.509aa, 168.561a, 168.624, 168.624a, 168.686, 168.706, 168.727, 168.737, 168.745, 168.769, 168.782b, 168.795, 168.795c, 168.797a, 168.798c, 168.799a, 168.803, 168.804, 168.842, and 168.931 of, the addition of Sec. 701 to, and the repeal of Sec. 509 of, Act 116 of 1954, known as the Michigan Election Law. A petition seeking a referendum on Act 269 of 2001 was filed with the Secretary of State. The Board of State Canvassers officially declared the sufficiency of the referendum petition on May 14, 2002. Const 1963, art 2, sec 9, provides that no law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election. A referendum on Act 269 of 2001 was presented to the electors at the November 5, 2002, general election as Proposal 02-1, which read as follows:

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Should this law be approved?

Yes \_\_\_\_\_

No \_\_\_\_\_

Act 269 of 2001 was not approved by a majority of the electors voting thereon at the November 5, 2002, general election.

**Popular name:** Election Code

**Administrative rules:** R 168.771 et seq. of the Michigan Administrative Code.